

Robert Schuman Centre

Europe Towards a
Post-Hobbesian Order?
A Constructivist Theory of
European Integration

(Or how to explain European Integration as an
unintended consequence of rational state-action)

MARLENE WIND

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ABSTRACT

The essay launches a constructivist explanation of the dynamic yet paradoxical interplay between what Joseph Weiler has termed 'decisional supranationalism' on the one hand and the 'constitutionalization' of the legal sphere in the European Community on the other. The two dimensions have constituted a theoretical puzzle for lawyers as well as for political scientists because they have described the integration process as moving in completely opposite directions. If one focuses on the political sphere alone, the EC was increasingly intergovernmentalized from the mid 1960's onwards and could thus best be characterized as a classical international organization. If we turn to the legal sphere of the Community on the other hand, the picture looks quite different. What we have witnessed here in the same period is a gradual but steady move from international to constitutional law. With a point of departure in a critique of especially intergovernmentalist approaches to European integration, this essay seeks to explain 'the logic' of this paradox by drawing on a sociological theory of institutional dynamics. The perspective is primarily inspired by Anthony Giddens theory of structuration and historical institutionalism and seeks to incorporate an idea of rational action on behalf of the member states on the one hand, and the largely unintended development of the legal sphere on the other.

Europe Towards a Post-Hobbesian Order ?

A Constructivist Theory of European Integration

- or how to explain European Integration as an unintended consequence of rational state-action¹.

"...the modern state is -- finally -- being undermined and overreached... What is supplementing and even replacing the old state system based on hierarchical command within each unit (at least in foreign affairs) and normative anarchy across them (at least, in principle) are new forms of order based on continuous negotiation, tacit consent, shifting arrangements, overlapping competencies, diffuse authorization and cooperative ventures that effectively obfuscates previous distinctions between levels of aggregation. However, the existence of this system has not yet succeeded in changing perceptions at the level of collective identification in mass publics, and it still seems incapable of convincing academics to revise their traditional concepts and categories of analysis". (Schmitter 1991 p. 16-17).

¹ This paper was first presented at the annual International Studies Association (ISA) Convention: 'Beyond Sovereignty', Chicago, Feb. 20-25/2 1995. A second draft of the paper was put forward at the Workshop on 'Theory Synthesis in IR.: Problems and Possibilities', European University Institute, Florence, March. 27 - 3 1995. Several later versions have been presented in seminars at EUI and in other international settings for instance in the Jean Monnet Lectures given at the University of Copenhagen in Nov.1994 and Nov.1995 and more recently, at a workshop at Harvard University in Dec. 1995. A forerunner for the essay has been published in Danish in a sociological journal, see (Wind 1994b). For comments on the present version of this essay I am especially indebted to Robert Keohane, Anne-Marie Slaughter, Alec Stone, Joseph Weiler, Francis Snyder, Paul Pierson, Susan Strange, Adrienne Héritier, Andrew Moravcsik, Vincenzo Ferrari, Berhard Giesen, Ole Wæver, George Ross, Torben Bundgård-Pedersen, Kristian Kjeldsen, Lars Bo Kaspersen and members of theory-group on European Integration (CORE), University of Copenhagen. I would also like to thank the Working group on International Relations at the European University Institute for many valuable discussions.

1.

Introduction

"The study of laws is largely a science of norms; the study of politics is largely a science of how power is used"². This almost trivial picture of the division of labour between lawyers and political scientists still holds strong as mental images within the two disciplines (Onuf 1989, 1994; Stone 1994; Weiler 1991). Equally so does the idea that norms and power belong to mutual exclusive spheres. Recently, however, legal scholars of European integration have noted that nowhere is the negligence of law - or taken more broadly 'institutions' by political scientists - more problematic than in European Community studies (Burley & Mattli 1993; Weiler 1991, 1994; Shapiro 1980, 1992; Dehousse 1989; Rasmussen 1986). The problem is not so much a lack of interest in the formal institutional set up of the European Union as a fundamental ignorance of the impact of informal norm-constituting practices and 'institutional politics' on the overall integration process. One good excuse for this unalertness on behalf of international relations (IR.) scholars, could perhaps be detected to the classical paradigm-division in the IR.-field between realism and idealism³. The interparadigm debate that has framed the discipline throughout its rather short existence made especially IR.-theorists of the realist branch almost cynical towards the possible impact of law and institutions on international life in general. Two World Wars and the not very impressive performance of the International Court of Justice in the post-war years seemed only to legitimize this scepticism. However, with the lack of belief in institutions and the cultivation of the

² See Stone(1994:441).

³ For a conventional introduction to the inter-paradigm-debate in IR. see for instance P.Viotti and M. Kauppi, (1987).

Hobbesian conception of power as 'the command of the sovereign', followed an extremely impoverished understanding of the impact of normative institutional practices on social relations in general (Ashley 1986 p. 291-92; Ruggie 1989, 1992; Kratochwil 1989; Onuf 1989; Wendt 1987, 1992; see generally Foucault 1977). In other words, many IR.-theorists have come to link an emphasis on institutions with either apolitical organizational formalism or social cohesion and harmony of interests (Kratochwil & Ruggie 1986; Wind 1996a).

An important recent but far from unproblematic exception to the negligence of institutions in international relations theory is the 'co-operation under anarchy' literature based on assumptions from neo-classical economics. In this literature international institutions certainly do play an important role moderating the gloomy realist world view where states are only concerned with their own survival. However, institutions as transaction-cost economics understand them, are not believed to have any autonomy or life of their own but merely function as solutions to collective action problems. Thus in their short and long-term design and persistence institutions are expected to mirror the calculated choices of those (state) actors that installed them. As I will argue below, however, borrowing from the economists when trying to understand the rather diffuse impact of institutions on political life in general, is not a very illuminating path to choose. As in the case of trying to comprehend European Integration, it might in fact be directly misleading.

In the present essay I am not so much interested in the formal influence of manifest institutions such as the Commission, the Parliament or the European Court of Justice on the development of European

integration in recent years. There has already been written bulks of books on this. The discussion will be more theoretical in the sense of trying to focus attention on the need for the development of a perspective that can grasp the informal and unanticipated consequences of institutional dynamics *and* their possible influence on actor perceptions of *power as legitimacy* over time. It will in other words be argued that in order to get a better grip of the current power-transformations in the European polity, theoretical innovation is needed. In section 4 and 5 of this essay an analytical framework is developed that takes institutional processes more seriously in the sense of giving them more explanatory autonomy than either neofunctionalism or any regime theory-approach. To stay in the jargon of IR.-theory, this - as I will name it 'constructivist approach' - clearly belong in the so-called 'reflectivist'⁴ camp and is based mainly on the structuration theory of Anthony Giddens and 'new institutionalist' organization theory (see Giddens 1979, 1985; Onuf 1989, 1994; March & Olsen 1984; 1989; DiMaggio & Powell 1991; Steinmo, Thelen & Longstreth 1992). The explicit purpose is to launch an analytical framework that is able to combine an emphasis of intentional/rational action on behalf of the agents involved (here the member states) and which at the same time takes account of the relative autonomy of

⁴ Throughout this essay I adopt R.Keohane's - now - conventional distinction between a rationalist and a reflectivist understanding of institutions (see Keohane 1988). The reflectivist label as utilized by Keohane is, however, extremely broad and covers everything from hermeneutic approaches to post-structuralism. The constructivist approach as applied to international relations has been promoted by scholars like N.G Onuf 1989 and Wendt 1987, 1992, 1994. What constructivists have been especially known for is putting the agency-structure-problem at the centre of any analysis of institutions in world politics. For a more in depth conceptualization of Onuf's version of constructivism see Wind 1996a, forthcoming in Wæver & Neumann eds.).

institutions and institutional practices as they develop over time. What I am interested in at the empirical level is the radical but among political scientists almost completely neglected impact of Community regulation - formal as well as informal - on member-state autonomy. My central claim is twofold; 1) firstly, that the penetration of community norms into the national legal sphere has gone much further than what was originally anticipated and wanted by the contracting states; 2) secondly, that this has reduced the national autonomy significantly and made the possibility of selective 'exit' from the Community practically (but perhaps not formally) impossible. These empirical insights are important in their own right, but the most important point in this context is that this empirical development will have tremendous consequences for our traditional *theoretical* perspectives for analyzing international cooperation. It thus no longer makes sense to study the EU-Polity as a strategic action-game where 'exit-options' is a basic - though often implicit assumption. This does not mean, however, that state strategies and bargains become uninteresting to analyze. States will continue to be important players. They will also continue to have strategies and interests and major bargains will still be important for conceiving of the direction of the integration-process. Rather it implies that it no longer gives meaning to try to assess the overall development on the basis of bargain-outcomes where state-preferences are seen as exogenous to the normative context. States and state-actors have increasingly but - as I will try to show in the following - probably quite undeliberately come to endogenize (and made sense of) the new institutional rules of the EU-game in their own preference-formation and consequently also in their bargaining strategies. It therefore become

increasingly important - analytically - not only to assess the character and density of the institutional development but also the way in which institutional developments has taken on a 'life of its own'. I will thus try to demonstrate that such developments over time very often come to deviate significantly from *initial* state-choices.

A constructivist approach, in other words, makes it possible *theoretically* to integrate the intergovernmentalist emphasis of states pursuing objectives strategically while at the same time stressing the importance of the institutional dynamics of the integration process as such. Though this might sound as just a new version of neofunctionalism, this is far from the truth. As it will become clearer below, a constructivist perspective differs from neofunctionalism both in its microfoundation, its understanding of institutional change and in its overall explanatory framework.

Moreover, a perspective like the one outlined here make us capable of conceiving the outcome of European integration differently than what has been possible by either intergovernmentalist or neofunctionalist approaches. Both have foreclosed any idea of change away from the territorial state because of the predetermination inherent in the ontological assumptions of these theories. Put differently, only two end-stages would fit nicely into the 'well-ordered' world we know already: The EU will either be a traditional intergovernmentalist organization or end up as a federal construct of some kind. Territory and power will, it is assumed, stay in the familiar symbiosis that has characterized the European state-system for about 500 years.

The constructivist conceptualization of the developments in Europe outlined in this essay will probably be much more messy than the ones

launched by traditional approaches but perhaps also much more likely. It does not predict what Europe will end up like but will provide a framework that gives room for outcomes that transcend conventional thinking.

1.2 Two Propositions

1.2.1. By emphasizing market failure, incomplete contracting and equilibrium-outcomes when explaining CO-operation between states, contemporary rationalist approaches to world politics have endorsed a very narrow understanding of institutional dynamics. In the first part of this essay it is argued that when applied to the recent developments in the EU-integration process, the rationalist approach seems even more problematic for two main reasons: 1) Its individualistic ontological assumptions adopted from neo-classical economics are unable to account for any possible unintended constraints on state 'choices' over time and of changes in interests and preferences resulting from institutional processes. 2) A rationalist conception of institutions is intimately linked to an intergovernmentalist approach to European integration - or rather co-operation.

Intergovernmentalists hold that there is nothing distinct about the European Union (EU) compared to other international organizations. This means that the rationalist vision of institutions as merely reducing transaction costs and providing an environment for states to get information about other states' preferences in a world without a Leviathan, can be applied directly to the European case. Moreover, the rationalist/intergovernmentalist perspective will have an inbuilt unwillingness to accept that any significant transfers of power from the member-states to the EU institutions or other actors can ever occur. The game theoretical metaphor and the individualist microfoundations adopted in the rationalist literature would simply crumble if the assumption of the state as an autonomous 'cost-benefit' controlling actor in any given bargaining-process, was ever questioned. Rational-institutionalists do accept that state-sovereignty can be pooled in some issue areas, but this does not conflict with the basic contention that such a 'pooling' always will be a result of deliberate and calculable choice. Taken together these propositions suggest that there will be an intimate relationship between the rational perspective's prior commitments to individualist microfoundations and its predictions of the outcome of the European integration process.

1.2.2. The inability of conventional perspectives to transcend traditional analytical categories - is, however unsatisfactory when looking at European politics today. This holds, I would argue, not just for a neorealist approach with its gloomy prospects for the European project but - as emphasized above - just as much for functional regime theory - or

as I call it here 'rational-institutionalism'. On the other hand, it does not seem that the classical antipole of intergovernmentalist position, neofunctionalism, is the best place to look for a less deterministic and more innovative institutional perspective. Though giving more leeway to especially supranational institutions, this perspective is, with its fixation on interest-groups maximizing their individual utility, just as the rationalist perspective giving too little, if any, importance to the often quite unpredictable logic of institutional dynamics. In spite of neofunctionalism's focus on manifest institutions such as the Commission, the Parliament - and to a lesser extend the European Court of Justice, it leaves too little room for the 'trial-and - error logic' of institutions. Neofunctionalism is furthermore build on a modernization vision of societal progress and harmony of interests. The theory's prediction of progressive spill-over mechanisms left no room for power, inefficiency, institutional slack and unanticipated effects in general. As the most recent organization theory has taught us, however, institutional developments as well as much political decision-making is more often a product of 'chance', appropriate and habitual reasoning on behalf of the actors involved, than of calculable strategic choice. Consequently, the outcome of political bargaining as well as institutional interrelations between agents and structures, is very frequently based on after-rationalization and adaptation, that is, of making sense of and legitimizing more or less unforeseeable dynamics.

So far, however, no coherent alternative approach building on these insights have been put forward within the IR.-field. Reflectivist IR.-theorists have often - perhaps correctly - been accused for being solely

deconstructive and unable to come up with any systematic research agenda of their own. They have also been criticized for lacking microfoundations. Whether this is a correct judgement or not will not be my concern here. What I will try to offer is, at least a sketch of a more constructive and even 'constructivist' analytical framework to the study of 'European Transformation' - to borrow a phrase from Joseph Weiler (Weiler 1991). The aim will be two-tracked. 1) Firstly, after a demonstration of the main insufficiencies of the rationalist approach to the study of European integration (section 3), the aim (section 4) will be to show that by adopting a more sociological approach to institutions one will arrive at a more, as it were, 'realistic' (but also much more messy) picture of how - agents and structures interact in formal as well as informal institutional settings. I will here draw on literature that - though it might seem exotic from a rationalist IR.-theorist's point of departure - has become mainstream in fields like comparative politics, organization theory, political theory, sociology and even law. 2) Secondly, this more sociological understanding of institutions also provides a theory of change in social systems in general and of actor-identities over time. Compared to the two classical IR.-approaches to European integration referred to above, the perspective developed here will be much more open to detecting unconventional outcomes of the current changes. The *empirical* relevance of a constructivist theory for grasping the fluctuating power-structures in Europe in recent years will as indicated above be illustrated (section 5) with an explication of the rather paradoxical development of European legal integration from 1960-1970 and beyond in the history of Community. The point of departure will be

Joseph Weiler's observations about the contrary dynamics in the legal and political-decisional spheres in this period. Put very briefly, Weiler argues that up until the Single Act in 1986, one could observe a parallel 'intergovernmentalization' of the decision-making processes in the Council on the one hand *and* a normative constitutionalizing process in the legal institutional sphere on the other. The two developments were not linked in any direct causal way, but the development in the one sphere might very well have had an *indirect* effect on the developments in the other. My point here is that this paradox cannot be explained or even conceptualized within a rational institutionalist framework, where only inter-state bargaining is considered important. Nor can it easily be explained in a simple interest-model based on neofunctionalism as some writers have recently suggested. By applying sociological theory - here primarily Giddens' theory of transformation in social systems - to Weilers observations, however, it becomes possible to explain the constitutionalization process as an *unintended consequence* of what was initially a rational state attempt to preserve full national autonomy. One can put it slightly different in saying that what was originally by the member-states seen as a deliberate and conscious attempt to gain security and economic prosperity through a controlled integration process over time, unintentionally made the states themselves co-producers of a normative institutional structure that has resulted in an irreversible 'closure of exit'. This has not and will with very little likeness lead to a European Suprastate of any kind but has changed *the character* of the state-to state interrelationship in Western Europe in such a way that the

relevance of intergovernmentalist approaches based on rational-choice assumptions has become fundamentally obsolete.

Unlike neofunctionalist integration theory this constructivist perspective still finds it meaningful to see the main actors as states. I thus agree with intergovernmentalism in the assumption that states are highly concerned with not losing control over the EU policy process. My point is, however, that when looking at especially the development in the legal sphere of the Community the past 25 years, the assumption of state-control is and has been an illusion. State sovereignty has gradually been undermined and the transfer of power to the Community through the evolution of the *aquis Communautaire* is practically irreversible.

A central argument of the perspective adopted here is that the gradual transitions that we will have to look for first and foremost have to do with changes in power *as* legitimacy. While a static bargaining theory might be able to tell us something about who has how much material power in a concrete decision making process, a constructivist would try to trace the changes in the legitimacy of institutional practices. Who has 'the right to rule' at a given point in time and why, how does this right change ?

John Ruggie summarizes the complex situation in Europe these years in the following manner:

"Take.. the EC, in which the process of unbundling territoriality has gone further than anywhere else...it may constitute the first 'multiperspectival polity' to emerge since the advent of the modern era. That is to say, it is increasingly difficult to visualize the conduct of international politics among community members, and to a

considerable measure even domestic politics, as though it took place from twelve separate, single fixed view points. Nor can models of strategic interaction do justice to this particular feature of the EC, since the collectively of members as a singularity, in addition to the central institutional apparatus of the EC, has become party to the strategic interaction game. To put it differently, the constitutive process whereby each of the twelve defines their own identity and identities are logically prior to preferences --increasingly endogenize the existence of the other eleven..There is no indication, however, that this remaining will result in a federal state of Europe--which would merely replicate on a larger scale the typical modern political form"(Ruggie 1992 p.171-172).

3. The Limitations of Rationalism

"Achieving cooperation is difficult in world politics. There is no common government to enforce rules, and by the standards of domestic society, international institutions are weak. Cheating and defection are endemic"(Keohane & Axelrod 1985 p.226).

A critical assessment of the rational-institutionalist perspective on European integration/co-operation implies focusing on some specific metatheoretical problems that are explicitly related to this position's individualistic understanding of institutions. My claim as set out in the introduction, was that a rationalist position is insufficient if we are to

grasp the recent dynamics of European integration because rationalists do not take institutions seriously enough.

The merging of the former rivalling realist and liberalist IR.-paradigms into one rational-institutionalist research-program in the 1980s, was unintentionally prepared for by Kenneth Waltz's extremely parsimonious neorealist theory in 1979. Even though Waltz's original ambition was to promote a structural theory of international politics, several reviewers and critiques of his theory made explicit, that his assumptions about atomism and 'self-help' in the international system, were based on an utilitarian and individualist ontology (see Ashley 1986; Wendt 1987, 1992)⁵. In fact, Waltz makes this clear himself by referring to microeconomic theory throughout his book and explicitly compares the balance of power-system with the theory of equilibrium in neo-classical economic theory (see Waltz 1979 p.54-55, 72-74, 89-94, 118). As noted by John Ruggie in his critical review of Waltz's 1979-book in 1983: "...the international system is formed...like a market: it is individualistic in origin, and more or less spontaneously generated as a by-product of the actions of its constitutive units" (Ruggie 1986(83) p.134)⁶. It was in other words, the parsimony and basic assumptions of

⁵ As Waltz puts it: "Balance-of-power theory is micro-theory precisely in the economist's sense. The system, like the market in economics, is made by actions and interactions of the units, and the theory is based on assumptions about their behaviour". Waltz (1979: 118).

⁶ Alexander Wendt has put it this way: "Waltz seems to be a holist, but in fact he treats the self regarding identities and interests of states as given prior to interaction...by taking the properties of his units of analysis as given and not addressing how these are produced by interaction, Waltz' theory is based on de facto individualism (whether or not intended as such), one in which the structure of identities and interests that constitute that particular kind of anarchy within which competitive power-seeking behaviour is learned is theoretically primitive, and which does not change as a result of systemic process. It is this de facto individualism that allows Waltz to equate systemic theorizing with micro-

Waltz's 'Theory of International Politics' that cleared the ground for an - ontologically speaking - individualist based synthesis between former realist and liberalist rivals - resulting in the regime-theoretical - or as I prefer to call it: 'the a rational-institutionalist research program'(Wæver 1992,1994;Kratochwil & Ruggie 1986; Wind 1993, 1996b). When applied to the EC this leads - not very surprisingly - to an intergovernmentalist approach. Because rational-institutionalists adopt a neorealist understanding of international politics as the basis for analysis characterized by a vision of the international system as an atomist anarchy, states face an eternal collective action problem. Consequently, a rationalist conception of the EC institutional environment is equivalent to the way economists in general conceive of institutions - as a voluntarily established, facilitating system in which otherwise self-regarding actors can pursue their individual interests (Moravcsik 1991, 1993a; Garrett; Garrett & Weingast 1991; see generally Oye (eds.) 1986 and Baldwin (eds.) 1993)⁷. James Caporaso has summarized the synthesis and general ontology of rational-institutionalism in the following manner:

"...the fundamental contribution of regime theory is to move realism (if it is still realism) out of its zero-sum world and to use

economic theorizing". Wendt (1992c:182); see also Wendt & Duvall (1989 :55). David Dessler makes the point in this way: "In the ontology of Waltz' approach, the unit precedes the system and through interaction generates structure. Of course, in Waltz's causal explanatory scheme, structure is seen as constraining and disposing state action, and in this sense it can be said that the arrangement 'leads to' (moulds, limits, shapes, and shoves) the interaction. *But ontologically speaking, it is the interaction that creates the structure*". D. Dessler(1989: 449). My emphasis. See also the debate on this issue between Wendt and Hollis & Smith in Review of international Studies vol. 18 1992.

⁷ Several of the articles published in IO in this period are collected in Oye: See K. Oye ed. (1986). For a more recent collection see D. Baldwin eds.(1993).

the theory of games to ask what kinds of arrangements (institutional arrangements) actors would devise under different types of incentives. The approach is clearly and unapologetically state-centred, self-interested, and methodologically individualist. It does not explain co-operation or institution-building as emanations of 'community goodwill', common values, shared loyalties, or collective identities. Instead it wants to explain outcomes, including institutional outcomes as products of self-interested calculations. In short, regime theory strives to provide a micro basis for international institutions"(Caporaso 1993b p.482).

As Duncan Sindal has put it: "What is fundamental to strategic analysis is not the specific subject matter of military or economic issues, but a basic conception of how we understand politics among states"(Sindal 1985 p.25). It can hardly be expressed in clearer terms.

Following this understanding, the EU is regarded as a regime-like organization providing - as argued by Stanley Hoffmann in 1982:" a set of norms of behavior and of rules and policies facilitating agreement among the members"(Hoffmann 1982 p.33). The same point of departure is taken by the majority of more recent publications on the EU and here it is not assumed that what Hoffmann called 'norms of behavior' in themselves, over time, will have any impact what-so-ever on the shaping of states' identity and interests(se generally Moravcsik 1991, 1993a; Garrett 1992; Grieco 1991; Weber & Wiesmeth 1991; Taylor 1991; Sbragia (eds.) 1992; Lange 1993 and others).

There are, however, several problems with invoking such a perspective to the study of European integration (or as intergovernmentalist prefer to see it: co-operation). Not only does a regime-approach reduce the EC-

institutions i.e. the Commission, the Court and the Parliament to some kind of residual categories which - as just indicated - are understood to have no or at least an insignificant independent impact on influencing state-interest over time, initiating policy-formulation etc. But the EC decision-making environment is also attributed very little significance for agenda-setting.

This is obviously in clear contrast with neofunctionalism which sees especially the Commission as an important player - not only for agenda-setting but also for convincing, as it were, the states about their 'true' interests (Dehousse & Majone 1993; Sandholtz & Zysman 1989, Tranholm-Mikkelsen 1991)⁸. I will get back to some of these critical points below, however, as noted in the introduction my critique of rational-institutionalism in this context will *not* focus on the importance of manifest EC-institutions. What I will try to emphasize here is rather the implications of not giving credit to the deeper institutional processes produced in formal as well as informal regulations and in day-to-day practices. Lawyers normally call this the *aquis communautaire* when talking about the EU.

More generally, what characterizes the literature that conceives of the EC or EU as a traditional international organization or a functional regime, is that it is conceptualized as a facilitator and efficiency-arrangement that can help otherwise self-regarding states to obtain strategically defined national goals by the reduction of transaction costs (see generally Krasner (eds.) 1983; Keohane 1984; Oye 1986; Grieco

⁸ Dehousse and Majone do not, however, label themselves neofunctionalists even though they see neofunctionalism as providing the most convincing explanation of the SEA. See R. Dehousse & G. Majone (1993).

1990; Rittberger ed. 1993; Lange 1992, 1993)⁹. The EU-institutional set-up is, in the rational-institutionalist research-program, seen to function as an arena in which states with fixed interests enter into in order to obtain a better bargaining position by gathering information about other states' preferences(Weber & Wiesmeth 1991 p.259; Moravcsik 1993; Garrett 1992 p.533ff; see also Cameron 1992 p. 28ff). It is at least partly in this way that the EU can be seen to 'strengthen the state' as Moravcsik has recently argued(Moravcsik 1993, 1994)¹⁰. Following this line of argument, the explanation for the co-ordinated opening of internal market in 1992 can thus, as Garrett has argued, be seen as an efficient solution to a collective action problem where the basic problem is always the following: "All states would benefit from co-operative arrangements, but there are powerful incentives for individual states to defect"(Garrett 1992 p. 533).

The incentive to defect is of course assumed (rather than empirically proven) from the image of world politics as an anarchy where states eternally seek prominence vis-à-vis other actors in the system.

⁹ This follows from the famous Chicago-school- Coase-theorem. As long way back as 1937 Ronald Coase pointed to the fact that market-exchange doesn't always work so smoothly as expected for a market with perfect competition, information and so on. It is more often the case that all kinds of cost follow exchange. Not just because of lack of information but because of cost accompanying implementation and for instance, sanctions systems (a missing Leviathan) to take care of monitoring and to some extend sanctioning. See R. Coase(1960).

¹⁰ The argument A. Moravcsik puts forward is of course much more complex in that he launches a model that can integrate domestic politics and international bargaining. However, this is not important for my argument here where my focus is on the possible changes in preferences and interest at the international level itself. At this level Moravcsik's image of state to state relations is just as static and predictable as those rationalist regime theorists who have shown little interest in incorporating domestic politics into the analysis. See A. Moravcsik (1993); and Moravcsik in P.B. Evans, H.K Jacobsen & R.D. Putnam eds. (1993).

Consequently, defection and free-riding is taken to be the most 'rational' strategy to choose for the individual state at any given point in time. This makes it possible (at least so long as not everybody defects !) to benefit from a collective good without contributing to it (see generally Olson 1965). The regime-literature in other words, also relies on the theory of market exchange familiar to neo-classical economics where the story unfolds like this: Firms in a free market (in IR. firms are of course replaced by states without an international Leviathan) pursuing wealth and power. However, the pursuit of self-interest by all will lead to Pareto-inferior outcomes in the market as such and equilibria solutions will be almost impossible to obtain. This creates a need for arbitration through institutions. Or as Keohane has put it: "there will be a demand for regimes"(Keohane in Krasner 1983; Keohane 1984). The collective action problem - and its solution in an EU context - can thus be summarized in this manner: "Even if the distribution of interests across states revealed potential gains from exchange, many opportunities would be missed due to poor information, lack of trust, incentives to defect, uncertainty regarding the duration of a contract, and ease of escaping detection if contracts are broken"(Cornett & Caporaso 1992 p. 226). However, if iterated games in an enduring environment are introduced, that is, if one co-operation-game is repeated and if the time-horizon for the interaction is extended, more stable co-operation might in fact be possible(see Axelrod 1984). The unique about the EU is exactly - so the argument goes - that it provides the states with an *enduring* institutional structure and even with a sanctioning-arrangement (the European Court of Justice (ECJ)) that makes more lasting co-operation feasible(Garrett 1992; Garrett &

Weingast 1993). In purely co-operative games the efficiency is increased for all due both to the extension of the time-frame, and the adoption of linkage-strategies. In other words, the EU's well-developed institutional structure makes it possible to organize side-payments to 'losers' in a specific bargain(Weber & Wiesmeth 1991 p.258). Rationalists for instance see the EU-structural funds in this light where well-off countries buy votes from less well-off countries through subsidies¹¹. In non-cooperative games - understood as policy-areas with greater political sensibility - so-called 'lowest-common denominator solutions' will be the most frequent outcome(see Moravcsik 1993; Krasner 1992).

A big advantage of adopting a rational institutionalist and thereby intergovernmentalist approach to European politics is quite clearly that it makes it possible to invoke theories of institutions and state-action that are applicable to *IR.-theorizing in general*. Put differently, theorizing about the EC from this perspective emphasizes some theorists' reluctance with theories that have conceived of regional integration in Europe as something (historically) unique. Carole Webb put it this way:

"Intergovernmentalism..denies the uniqueness of the EC as a framework for international co-operation..it denies that the national political and economic systems of Europe are so interdependent and so penetrated by the Communities that governments cease to be sole arbiters of their country's external fortune.. the pluralist image of the network of participants in the EC's policy process is rejected in favour of a more conventional picture of governments carefully

¹¹ See Gary Marks 1992 for a view that questions such an explanation.

aggregating domestic positions at the national level"(Webb 1977 p. 17-18)¹².

Moravcsik, in particular, has stressed the concern for general theory by striving to formulate a generalizable framework that transcends time and space, a well-known aspiration of all positivist social science. Moravcsik puts his version of this goal in the following way: "Liberal Intergovernmentalism assimilates the EC to models of politics potentially applicable to all states, thereby specifying the conditions under which a similar process of integration may occur elsewhere" (Moravcsik 1993b p. 519; for a critique see Matlary 1994 p.7ff, 1993; Wind 1996b, 1997)¹³. Quite clearly, such an analytical framework leaves little room for even imagining a future decoupling of power and territory.

For the rationalist-institutionalists as for anyone else occupied with European politics since the 1980's however, the speeding up of the integration process has given rise to new speculations about how we as analysts can make sense of these intensified dynamics. What was it, in other words, that all of a sudden gave the process new fuel - not only with the adoption of the SEA in the mid-1980's and the opening of the internal market in 1992 - in spite of the dissolution of the Soviet Union and the liberation of the Eastern European states ?

¹² Here quoted from Matlary *ibid*.

¹³ J. Haaland Matlary has recently - rather sarcastically - noted the following consequences of doing away with history: "There is a logical connection between how one chooses to conceptualize the EC and one's theoretical ambition. If one chooses IG (intergovernmentalist MW) assumptions the ambition to arrive at generally applicable theory is inherent in these assumptions: the state is an actor like any state, the EC but a regime with the same theoretical status as any other regime. History is not a complicating factor as the theoretical categories are timeless".(Matlary 1994 p.7).

The breaking up of the EU structures and resumed rivalry between the European powers as foreseen by neorealists like Mersheimer has not come to pass - at least not so far (Mersheimer 1990; for a critique see Kratochwil 1993a). We are, in other words, impelled to ask the question: why is it that states - voluntarily co-operate and eventually give away certain powers to a supranational organization like the EU - including the acceptance of majority ruling in several issue areas and continued autonomous power to the ECJ? As I will argue subsequently, taking a conventional Hobbesian state of nature as a point of departure - as do both rational institutionalists and more hard-headed (neo)realists - leaves a lot to be explained. What I am getting at here is the contention launched in the introduction to this essay, that the ontological point of departure of rational- institutionalism (and neorealism) - anarchy and maximization of state interests, puts very narrow limits, not only to what we as analysts can see 'out there', but also to what we should be concerned with when looking at integration in Western Europe today¹⁴.

Clearly, from an intergovernmentalist point of view neofunctionalists have highly overestimated both the independent influence of the Commission and of personalities like for instance Jacques Delors when analyzing European integration (Moravcsik 1991, 1993a). Even though Moravcsik grants the Commission a certain impact on the speed of negotiating the SEA in the mid-80's, the final result, he argues, reflected

¹⁴ An important exception would be Krasner's sovereignty-article from 1988. Here Krasner recognizes the reflective-institutionalist critique of the rationalist's adherence to microeconomic theory. However Krasner has not pursued this line of investigation in his later works. Quite the contrary. See for instance his work on 'Global Communications and National Power' from 1992 where a hard-line realist stance in the ongoing debate between neorealists and neoliberalists about relative and absolute gains is put forward.

the converging interests of the major states with the lowest denominator-outcome(Moravcsik 1991 p. 47-48). Agreeing with scholars like Alan Milward and Paul Taylor, Moravcsik contends that:"..the unique institutional structure of the EC is acceptable to the national governments only insofar as it strengthens, rather than weakens, their control over domestic affairs, permitting them to attain goals otherwise unachievable"(Moravcsik 1993a p. 507). This is certainly clear talk. In other words, states are not only expected by all available means to try to maximize their self-interest but it is also expected that they will be able to monitor and thereby *control* the integration process very carefully. In the rational world vision states are free to choose between exit, voice and loyalty at all stages. In section 5 in particular this contention will be examined - and indeed questioned.

Also the EC legal framework is regarded by the rational-institutionalists as a neutral voluntarily installed sanctioning structure - a semi Leviathan - that, in everybody's long-term interests, is given certain limited powers to punish transgressors of EC law and regulation(Moravcsik 1993a p. 513; Garrett 1992 p. 533,558, Garrett & Weingast 1991; Garrett 1995). With the point of departure in functional regime-theory, Garrett & Weingast argue that the power given to the ECJ is an expression of calculated interest on behalf of the member-states. EC-states do have shared goals, but they are unable to foresee all future problems and uncertainties involved in obtaining these because of fear of a.m.. free-riding. Therefore they have an incentive in empowering a neutral(!) agent such as the ECJ to enforce and police agreements¹⁵. Moravcsik and Garrett do admit that the

¹⁵ See G. Garrett & B. Weingast (1991); Garrett (1992).

European Court of Justice has developed powers that go beyond what is 'minimally necessary to perform its functions', as Moravcsik puts it. As noted by Matlary, Moravcsik, in fact, see the development of the ECJ's power as an 'anomaly' because it - he must admit - *does* have rather significant independent powers that do not fit nicely into his intergovernmentalist world view (Matlary 1994 p. 19). At the end of the day, however, Moravcsik and Garrett reject that the legal framework can be said to threaten the sovereignty of the member states. On the basis of one single case, Garrett even goes as far as to say that the ECJ simply reflects the interests of the major powers (Garrett 1992, 1995 see also Taylor 1991 p.121; Garrett & Weingast 1991; compare Burley & Mattli 1993; Snyder 1993b; Shapiro 1992; Rasmussen 1986, 1994)¹⁶. As Burley & Mattli have underlined in their revealing article on the political impact of the ECJ, this contention is, however, directly wrong. The truth is that in several cases the governments of major countries argued fiercely against the Court's position (Burley & Mattli 1993 p. 50-51). I will get back to the question of how to evaluate the political impact of the legal process in section 5.

One of the most crucial problems with the rational-institutionalist perspective is thus not just that it leaves out the impact of significant institutional dynamics, but also that the explanation of state interest/preference formation stays exogenous to the EC-decision-making process. This point is well made by Wayne Sandholtz when he notes that: "...the intergovernmentalist argument implies that states form their preferences via some hermetic national process, then bring their interests

¹⁶ The same claims are made by Geoffrey Howe and Alan Milward.

to Brussels"(Sandholtz 1993 p.3)¹⁷. It is, in other words, not until *after* state-interest is established and fixed, that the analysis of the international process is taken into consideration. Thus, in the bargaining process itself nothing is assumed to happen. State-interests and self-perceptions stay the same, or put differently, in the rational regime literature an endogenization of interest-formation - on the international level - is in fact impossible¹⁸.

The impossibility of incorporating changes in interests over time at the international level as a consequence of the density and slack in the institutional environment as well as in the decision making processes is, however, not merely a problem for functional regime theory. It is equally obvious in the literature working with theories of two-level games(Putnam 1988). I will leave out any in depth discussion of such recent attempts by some rationalist scholars to improve functional regime theory by trying to incorporate domestic politics into the analysis of international bargaining. Still, domestic politics clearly matters when states formulate (and change !) their interests, but the question is exactly whether more sophisticated game theoretical models are what we should be looking for in trying to get better insights into European politics today ? In other words, is politics in Europe hastily approaching the year 2000, really organized in such a nicely organized two-step manner as recently suggested by Moravcsik and other IR.-scholars ? I for one have my doubts. It does not seem to me that any viable solution to the problem of

¹⁷ See also Wallace, Wallace & Webb (eds.), (1977).

¹⁸ For a discussion of this problem in the rational choice-literature in sociology see. A. Wildavsky (1993).

integrating domestic politics will be found as long as we do not dare to abandon the sharp divide between domestic and international politics (for an alternative approach see Olsen 1995a & b; Burley 1993 p.125-157; Bundgaard-Pedersen 1995; K. E Jørgensen 1996 ed. forthcoming). As noted by Matlary who quotes David Cameron: "...foreign and domestic policies (in the EU) become increasingly intertwined because national political leaders, in negotiating among themselves within the Community, are simultaneously making foreign policy and domestic policy" (Cameron in Matlary 1994 p. 20). More generally, following March & Olsen's 'Rediscovering Institutions' and their 'garbage can models', the pluralist image of political decision-processes taking place in nice and simple interest aggregating sequences is far from the messiness of real-world policy-formulation - no matter whether situated at the national or international level (March & Olsen 1989 p.12; more on this in section 4; see also Peters 1992; Bundgaard-Pedersen 1995). Several empirical studies show that the density and frequency of decision-processes at the European level makes the image of two - level games look more like 'wishful thinking' on behalf of those scholars favouring the simplicity of formal modelling, than 'real-life' politics:

"...the interaction state-EC is much more complex than a two-level game..It seems increasingly unlikely that the state as a unitary actor should be able to play such a 'game' in a calculated manner, which means that it should be able to take into account the interplay between itself and a host of other actors at several levels. The complexity of the 'two-level' metaphor, which was argued to be its advantage, may thus, when applied to the EC case, be its bane" (Matlary *ibid.*).

And as Matlery continues: "...as long as there is no dynamic theory of how interests are modified or even initiated one is hard pressed to find out exactly how the states and the EU interact in the sense that the perception of states' interests is influenced by the existence and importance of the EC, and vice versa. Even if one grants that the actors in IG (intergovernmentalist approaches MW) take into account the likely strategies and strengths of other actors (EC, other states) when they formulate their own, once formulated, the strategies remain static"(Matlery ibid. p.22; see also Wendt 1992 p.394-398).

One can certainly question the relevance of such a simplistic perspective when one is dealing with the EU today. Several empirical findings direct our attention to the fact that power is no longer preserved in a nicely demarcated territory. Not much suggests on the other hand, that what we can envisage on the horizon is a new, territorially state on the European level, either. The problem with the rational-institutionalist perspective is thus not just its static and atomist understanding of the state and of what actually goes on in international co-operation but- as noted above - also its inability to conceptualize any changes in power and identity between different actors and institutions over time(see also Katzenstein 1990)¹⁹. One could of course argue that this doesn't matter because this wasn't what the rationalist perspective set out to explain. Such a respond is however fundamentally flawed. The point is exactly that the

¹⁹ "...international conflict and co-operation do not result from a process open to reductionist logic of analysis that takes interests as given. Instead the preferences of actors are changed by historical experience as are their views of how the world works"(Katzenstein 1990 p. 17).

intergovernmentalists claim to be able to explain - not just the bargains - but *integration* as such.

In the remaining part of my analysis I will keep states as main actors. As noted in the introduction this does not mean that I will stick to a realist - and indeed legal formalist - conception of sovereignty. As will become much clearer as we proceed, there is quite a difference between those rationalist analysts who work with states as atomist entities pursuing fixed goals and which have interests and preferences given prior to interaction on the one hand, *and* those analysts who emphasize the reciprocal interplay of agents, institutional processes and historically produced meaning-structures, on the other (see also Matlary 1993; 1995). What a constructivist perspective implies is that instead of letting state-interests and preferences be given by assumption, 'goals, strategies, and preferences', as Thelen & Steinmo argue, are exactly what need to be explained: "...unless something is known about the context, broad assumptions about 'self-interested behavior' are empty", as they put it:

"...we would not have trouble with the rational choice idea that political actors are acting strategically to achieve their ends. But clearly it is not very useful simply to leave it at that. We need a historically based analysis to tell us what they are trying to maximize and why they emphasize certain goals over others" (Thelen & Steinmo 1992 p. 9).

This is not enough, however. In order to get an idea of how changes in power and legitimacy take place in social systems, we also need a better conception of the relationship, between goals pursued by actors and the

unintended consequences of these strategies. As I will illustrate in the following section, Anthony Giddens's theory of social change as an unintended consequence of rational action, can, in fact help us with that. Friedrich Kratochwil has argued over and over again, that this implies that we would have to recognize the crucial importance of what he calls 'institutional facts' when assessing meaningful social interaction. This position can be seen as the first important step towards taking institutions seriously:

"The difference between a world of institutional facts (i.e. rules, norms and discursive and non-discursive practices MW) and that of brute or observational facts is well brought out by imagining how we would have to explain a football game in the language of observational facts alone. We would keep a statistical record of how many clusters we observed, how the periodic circular clustering is always followed by linear ordering and wild running over the field but..no matter how much data of this sort we imagine our observers to collect and no matter how many inductive generalizations we imagine them to make from the data, they still have not described American football..What is missing are all those concepts such as touchdown, offside, game points, time-out etc..the institutional facts, can only be explained in terms of the constitutive rules that underlie them"(Kratochwil 1989 p.27).

To sum up, the rational-institutionalist position in its different versions, regards institutions as purposive- efficiency arrangements installed to solve collective action problems. Whether formal or informal, institutions are not seen as having even relative autonomy. When they are taken into account they are regarded as constraining rather than enabling

social action. As we shall see below this vision of institutions is closely connected to a traditional Hobbesian conception of power that penetrates almost all traditional IR.-theory (as well as positivist legal theory). Power is here understood to be related directly to formal sanction and compliance mechanisms and there is no room for a more subtle normative conception of power. As will be argued both in the section to follow and in the concluding section 5, such conceptions of power are, however, fundamentally flawed when it comes to conceiving of changes in legitimacy. And changes in such parameters are exactly what we will have to look for when analysing European politics at present.

4. Towards a Constructivist Conception of Institutions

"Political scientists steeped in the power-oriented perspectives of realism or trained in the empirical methodologies of behaviourism tend to dismiss any emphasis on the role of institutions as a vestige of the discredited ideas of the formal, legal, institutional school of thought...Mainstream economists, proud of the formalizations of neoclassical economics....generally ignore institutional issues...or regard them as hopelessly untraceable". (Young 1986).

4.1 Integrating Agency and Structure

Within large parts of social science disciplines in recent years, there has been an increasing awareness of the problems with explanatory frameworks that are based on either narrow actor or structure assumptions²⁰. In some disciplines this debate has gone under the label 'the agent-structure' debate or 'The Micro-Macro-link'. In others, for instance in comparative politics and organization-theory, the label has been 'new institutionalism' and in law it is called 'law in context' and 'autopoietic law'. Apart from their differences and different points of origin, these approaches share a common dissatisfaction with the conception of institutions as represented by rational-institutionalists above. Reaching back to my introductory comment on the lack of interest in norms and institutions by political scientists, the constructivist position sketched in this section certainly rebuts that picture. However, it has not as yet reached the mainstream of international relations. This essay can be seen as an attempt to further this process.

²⁰What I am thinking of here is for instance J. March & J.P. Olsens 'Rediscovering Institutions from 1989, representing organization theory and overall political science. In Comparative politics see Steinmo, Thelen & Longstreth 1992 for a general introduction. In sociology bulks of work is concerned with these issues and it would be completely impossible take out a representative sample, but see J. Alexander(1982), Theoretical Logic in Sociology; R. Harre'(1981), Philosophical Aspects of the Micro-Macro Problem in K. Knorr Cetina and A. Cicourel (eds.), Advances in Social Theory and Methodology: Toward an Integration of Micro- and Macro-sociologies. In law one could refer to the so-called 'law in context school' which is inspired by Giddens as well as Luhmann and other more anthropological and sociological approaches. See F. Snyder 1990 and F.Snyder (eds.) 1993. See also G. Teubners 'Introduction to Autopoietic Law' from 1988 and Rasmussen 1986 and 1994. Within international relations special attention should be drawn to W. Carlsnaes 1992, N. Onuf 1989, F. Kratochwil 1989, P. Katzenstein, J. Ruggie, J. Caporaso, Wendt 1987, 1992 among others.

Constructivists, or as Keohane labelled them - reflective institutionalists - not only share a common critique of rationalism, but also a more positive understanding of how institutions shape actors. Quite clearly what these theorists are concerned with is not only the working and influence of formal organizations and their impact on politics, but just as much, the impact of informal rules and institutions as well as historical practices on actors identities and world views. At the same time institutions or structures are not only seen as constraining actor-choices but equally as providing choice opportunities. Peter Hall defines the influence of institutional factors on action in the following manner:

"On the one hand, the organization of policy-making affects the degree of power that any one set of actors has over the policy outcomes... On the other hand, organizational position also influences an actors definition of his own interests, by establishing his institutional responsibilities and relationships to other actors. In this way, organizational factors effect both the degree of pressure an actor can bring to bear on policy and the likely direction of that pressure"(Hall in Steinmo, Thelen & Longstreth 1992 p.3).

Unlike the rationalist conception of institutions, this perspective sees institutions as extremely important for individual preference-formation and for the on-going shaping of actors goals and strategies. In other words, actors certainly pursue goals but the formulation of these will be a result of 'making sense' of institutional processes including the attitudes, roles and recognition of other actors present in the setting. In fact most actions and choices are taken - not in a nice sequentially order - but - quite

'rationally' - on the basis of habits and well-known routines. As Thelen and Steinmo put it: "...people don't stop at every choice they make in their life and think to themselves, "Now what will maximize my self-interest?" Instead, most of us, most of the time, follow socially defined rules, even when doing so may not be directly in our self-interest"(Thelen & Steinmo 1993 p. 8). And as Powell & DiMaggio have argued: "The constant and repetitive quality of much organized life is explicable not simply by reference to individual, maximizing actors but rather by a view that locates the persistence of practices in both their taken-for-granted quality and their reproduction in structures that are to some extent self-sustaining"(DiMaggio & Powell 1991 p. 9; See also Knorr-Cetina 1988 p.30-31)²¹. In other words, in this institutional perspective man is regarded as a fundamentally 'social creature'. Meaningful - or if you wish 'rational' action will, as also March & Olsen have argued, be what is seen as 'appropriate' behavior at any given point in time - implying a rather radical rejection of the rational-institutionalist assumption that the precise implications of self-interest is the same for everyone can be established outside time and space(March & Olsen 1984 p. 743, 1989 Ch. 2; see also the discussion in Wildavsky 1994 p.131-159; Grenstad & Selle 1995 p.5-27)²². Social actors - whether individuals or states - are not isolated atoms

²¹ As K. Knorr-Cetina puts it: "Frequently, participants prefer to forgo arguable rights in order not to damage their social relations. It is also clear that rules which fit the case may be made up 'as we go along'"(Knorr-Cetina 1988:31).

²² March & Olsen have suggested the following distinction between the rational and reflectivist conception of human ontology:

Anticipatory action:

1. What are my alternatives ?
2. What are my values ?
3. What are the consequences my alternatives for my values ?

Obligatory action:

1. What kind of situation is this ?
2. Who am I ?
3. How appropriate are different actions for me in this situation ?

but exist and relate to others in a world of meaning. With Peter Katzenstein: "Norms reflect premises. Their importance lies not in being true or false but in being shared. For these premises create themselves the evidence that confirm their validity" (Katzenstein 1990 p.17). As Kratochwil points out such a position has important both epistemological and methodological implications:

"...human (and state) action in general is rule-governed...with the exception of pure reflexes or unthinking conditioned behavior - it becomes understandable against the background of norms embodied in conventions and rules which give meaning to an action. Thus, not only must an actor refer to rules and norms when he/she wants to make a choice, but the observer, as well, must understand the normative structure underlying the action in order to interpret and appraise choices. Norms are therefore not only 'guidance devices', but also the means which allow people to pursue goals, share meanings, communicate with each other, criticize assertions, and justify actions"(Kratochwil 1989 p.11; see also Kratochwil 1982 p.1-30).

As it should be clear by now, a constructivist institutionalist position draws on a large group of theorists who in several ways have influenced it and who share a common understanding of the co-constitution of agents and structures. However, Anthony Giddens should be given special attention because he, to my knowledge, is the only one who has developed an explicit causal theory of social change based on a micro-sociological

4. Choose the alternative that has the best consequences.

4. Do what is appropriate.

See also G.Grendstad & P. Selle(1995).

understanding of institutions (but see also Harre' 1981; Knorr-Cetina 1988). As rationalist scholars tell us over and over again: a strong theory of action need solid microfoundations.

As we shall see shortly, the main thrust of Giddens' theory is not only that knowledgeable actors are influenced by structural properties in their, as it were, strategy-design but also that they as Giddens explains, in their pursuit and action - without intending it will produce effects that they would never have been able to account for in the first place.

To start at a quite basic level, it is a fundamental constructivist contention that whereas the natural sciences at least to some extent have been able to establish laws on the basis of empirical observations, this cannot nor should be the ideal for the social sciences. One of the most important reasons for this is as Giddens notes that: "...the causal conditions involved in generalizations about human social conduct are inherently unstable in respect of the very knowledge (or beliefs) that actors have about the circumstances of their own action...The theories and findings of the social sciences cannot be kept wholly separate from the universe of meaning and action which they are about (Giddens 1985 p. xxxii; see also Hollis & Smith 1991). This, however, should not prevent social scientists from creating what has often been referred to as 'middle-range-theory'. The important difference between the natural and social sciences is also revealed in the distinction between regulative and constitutive rules. This distinction is furthermore fundamental for understanding Giddens' theory of social change and thus of the link between micro and macro perspectives. Rules are, in our common-sense conception of them related to prescribing or sanctioning action. This is, however, a very superficial

understanding of the way in which we as social beings draw on rules in our day-to-day practices. As hinted at above, rules are, at a very fundamental level, essential to our making sense of the world. We rely on rules in order to reduce complexity and they tell us how to 'go on', as Wittgenstein has made explicit. This obviously means that there is more to rules than their sanctioning quality. They also constitute meaning. As drawn to our attention by Kratochwil above, we know this from the functioning of rules in all types of games, for instance in chess or football. The rules in these games do not only consist of prescriptions that punish players when formalized structures are transgressed but also consist of rules that tells us what 'counts' as what in the game itself. These rules *constitute* the game so to speak and can accordingly best be labelled 'constitutive' rules. There will, in fact, be no game at all if there are no such rules 'making sense' of the whole thing. The language philosopher, John Searle, puts the distinction between the two rule-types in this manner: "...regulative rules can usually be paraphrased in the form 'Do X', or 'If Y, do X'. Some constitutive rules will have this character but most will have the form 'X counts as Y', or 'X counts as Y in context C'" (Searle 1969 p.35). The distinction is also found in H.L.A Harts opposition between primary and secondary rules - Hart being heavily influenced by the philosophy of language in developing his 'concept of law' (Hart 1961 p.91-92; see also Onuf 1989 p.35-65). As Giddens points out, the difference between the two rule-types should, however, never be overemphasized because rules characterized as primarily constitutive will have sanctioning elements in them and the opposite goes for those rules that are predominantly sanctioning. They will in their mere statement

invoke strong constitutive elements(Giddens 1985 p. 20). The plot in this story of rules is of course that constitutive rules are crucial - not only to games - but to all social behavior. We simply could not act - at least not meaningfully - outside a constitutive structure. Alexander Wendt has put it this way:

"Institutions are fundamentally cognitive entities that do not exist apart from actors' ideas about how the world works. This does not mean that institutions are not real or objective, that they are 'nothing but' beliefs. As collective knowledge, they are experienced as having an existence over and above the individuals who happen to embody them at the moment'. In this way, institutions come to confront individuals as more or less coercive social facts.."(Wendt 1992 p. 399).

It is exactly the change and production of these 'collective world views' we as analysts of international transformation should be occupied with grasping. In international relations, a notion such as sovereignty only has existence because we know what it means cognitively, that is, only if there are rules signifying what it means to be sovereign in the first place. The same could be said of the exchange of diplomats between states - which is a fundamental institution in international society, and for instance for those intersubjective rules that define what it means to go to war or to sign an arms reduction treaty(Der Derian 1987; Dessler 1989; Bull 1977; Nardin 1983). Furthermore, if we relate this to the EU it implies that the institutional environment - the *aquis communautaire* - as it has evolved and gained meaning in its present form through practices of the states and EU-institutions, represents a constitutive meaning-structure that both

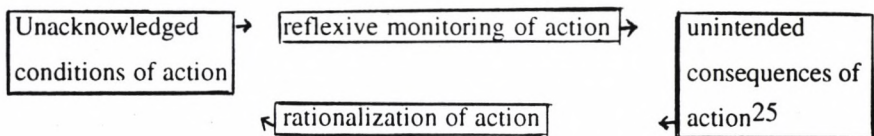
constrain and provide choice-opportunities. In other words, constitutive meaning structures are basic, but - and this is important - just as they for their existence are dependent on actors for their reproduction, they are also changeable. The transformation of historical practices and world views is, however, a very gradual process that calls for careful conceptual analysis (Onuf 1994 18-19). Giddens argues that exactly because constitutive rules in social life are transformative it is better to leave the 'game' metaphor (games like football or chess rarely change their constitutive structure) and instead take a closer look at language. We can thus with great advantage compare the speaking or writing of a language with the relation between actors and structures in social life. Giddens calls this interplay 'the duality of structure' because the two elements are fundamentally inter-linked (Giddens 1985 p.25)²³. Thus, when we speak a language we not only reproduce 'it' and its grammatical structure, but we also - constantly change it by applying new words or dropping old ones. However, this transformation often happens undeliberately (Giddens 1985 p.24). To put it differently, we do not think about the effect on the overall grammatical structure of our language-use when we in our communication utilize some words or phrases instead of others. This point is in many ways the core in Giddens structuration theory because it illustrates that we can conceive of intentional or 'rational action' while at the same time work with an idea of social structure as a product of unintended consequences over time. This duality is a great achievement

²³ More precisely the duality of structure entails: "the constitution of agents and structures are not two independently given sets of phenomena,...(but), structural properties of social systems are both medium and outcome of the practices they recursively organize. Structure is not to be equated with constraint but always both constraining and enabling" (Giddens 1985 p. 25).

for social theory in general because actor and structure- explanations traditionally have been opposed to each other and seen as mutually exclusive²⁴. Thus, in speaking we not only express something and thereby perform an (most often) intentional act, we also gradually transform the constitutive structure without thinking about it and without being able to control the overall effect of it. Consequently, through our discourse and material action we unintentionally create the condition for future acts. As Giddens puts it:

"The dureé of day to day life occur as a flow of intentional action. However, acts have unintended consequences..and unintended consequences may systematically feed back to be the unacknowledged conditions of future acts Thus one of the regular consequences of my speaking or writing English in a correct way is to contribute to the reproduction of the English language as a whole. My speaking English correctly is intentional; the contribution I make to the reproduction of the language is not"(Giddens 1985 p.8).

Figuratively the theory of change in social systems can be illustrated like this:



²⁴ For a general very illuminating discussion of this problem, see Alexander, Giesen, Münch & Smelser (eds.), (1987).

²⁵ See Giddens 1985 p.5.

Furthermore, the conditions for future acts that Giddens talks about, will by the actors be perceived of as some kind of new 'objective reality' that they will try to make sense of and accordingly react to in a knowledgeable way. They become the new background-conditions for action. What a constructivist perspective stresses is thus on the one hand the inability of human agents to fully control the overall implications of their actions and on the other, actors continuous 'afterrationalization' or legitimization of often unintended developments. This notion will characterize dense institutional settings in particular, but can be generalized to most of social life. It is probably also important to stress that such a constructivist conception of social change departs from more voluntaristic 'learning-models' as promoted by Ernst Haas or Alexander Wendt (see Wendt 1992; 1994). In talking about anarchy being 'what states make of it', Wendt focuses far too much on change in state-identities as something actors choose as they please. From the constructivist position adopted here on the other hand, change in identities always happens in reference to historical structures that constrain as well as create choice-opportunities. This point is also emphasized by Knorr-Cetina below in her idea of action as an 'getting on with our business' in reference to past experiences:

"...it makes reference to the in-principle infinite regress of background assumptions which inform social behavior. None of these assumptions ...is fully interpreted (acknowledged MW), that is, can be rewritten into statements whose truth is context-independent ...Yet to get on with ones business, some of these assumptions must always be taken as face value and 'held constant' in the process of interpretation (action MW). Thus there are no fully interpreted rules..the 'situation' and its 'requirements' must be defined on the

basis of further assumptions which are taken for granted for the time being"(Knorr-Cetina 1988 p. 31).

This point is extremely interesting when we try to make sense of the European integration process as it has evolved. It might just illuminate how and why gradual changes, for instance increased power in one sphere over time - and perhaps after some resistance - may be conceived as 'a new objective reality' by actors in the system. This in spite of the fact that such change was never originally intended or even wanted. Obviously such a institutionalist perspective also fundamentally questions the idea so well known in efficiency models of political science and microeconomic theory - not to mention international relations theory - that institutional processes and policy outcomes will necessary lead to some kind of 'balance' or equilibria(see March & Olsen 1989 p.5-6; see also Stone 1992 p.159-60).

It is in other words important to stress that this analytical framework makes it possible to hold on to an idea of rational actors pursuing goals - while at the same time emphasizing the fundamental constitutive status of rules and meaning-structures in the definition and change of such goals. A quit innovative insight considering the so familiar guerrilla war between actor and structure perspectives on world politics. A point no less important for the study of European politics today.

An other point that simply cannot be over-stressed is the whole question of power. Giddens theory of the transformation of social systems would probably not be able to prove its fruitfulness at all if one stayed within the confines of a classical Hobbesian conception of power. This is indeed a challenge to mainstream IR. Thus, the often gradual transformation of institutions is intimately connected to changes in social empowerment - not only of the rules of the game as such, but also of power as roles. As Richard Ashley has put it:

"..the very status of an agent is not in any sense attributable to the inherent qualities or possessions of a given entity. Rather, the power and status of an actor depends on and is limited by the conditions of its recognition within a community as a whole. To have power, an agent must first secure its recognition as an agent capable of having power...It is always by way of *performance in reference*...to collectively 'known' (structures), that actors gain recognition and are empowered"(Ashley 1986 p. 291-292).

If the link between practice, legitimacy and power seems a little abstract we might rush to think of an example related directly to the IR.-field: the birth of the European states-system at the Peace of Westphalia. As John Ruggie and others have made explicit on several occasions, the transformation from a mediaeval hierarchical structure to a decentralized state-system certainly did not happen overnight but gradually and as an unintended result of actors changed practices, roles and power configurations(Ruggie 1989;1992). During several hundred years before

(and in fact also after) the final breakdown of the hierarchical power structure of the Roman Empire, discursive as well as more material fights over who had what rights and roles were part of the daily 'order'(Hinsley 1966;Wight 1977). Drawing on Giddens, Ruggie has argued that the transformation of the European society from the mediaeval to the modern state system was exactly about changes in power as legitimacy. As opposed to the conventional IR.-story - about power as wealth and military capability, Ruggie argues that: "The issue that was up for grabs during the transformation was not who had *how much power*, but who had *the right to act as a power*"(Ruggie 1989 p.28)²⁶. Or as Andreas Behnke has put it also building on Giddens:"The exercise of power in human agency is inevitably linked to the application or employment of social rules which problematize any such exercise as 'legitimate', 'illegitimate', 'right' or 'wrong'(Behnke 1993 p. 35). The ongoing constitution of society - domestic or international - happen through such 'deeds', as Nicholas Onuf puts it(Onuf 1994 p. 18; see also Stone 1992 p. 469-474)²⁷. For our present context it is thus significant to notice that what we should look for when trying to keep track of possible transitions in legitimacy in Europe these years - is exactly changes in definitions of the 'correct' interpretation of roles and the overall rules of the game. One good example of this the experienced legitimacy of formal as well as informal EU-regulation. What does the changes in the governing-practices between

²⁶My emphasis.

²⁷ As Onuf puts it: "Every time agents choose to follow a rule, they change it - they strengthen the rule - by making it more likely that they and others will follow the rule in the future. Every time agents choose not to follow a rule, they change the rule by weakening it, and in so doing they may well contribute to the constitution of some new rule". N.G. Onuf,(1994:18).

the different actors and levels in the system indicate ? Another example is the ongoing debate about whether the EC/U should be deepened and/or widened. What type of actor is EU to become and where is one to place its 'natural' outer borders ? Discursive 'fights' take place all the time among scholars (and judges), politicians, intellectuals and technocrats just to mention a few core groups and might just give us an idea of new possible and more fundamental transitions.

Summing up before we go to the more concrete illustration of Giddens' theory, it should be stressed that the concept of power we have traditionally worked with in IR. often will be directly misleading when it comes to grasping these more subtle phenomena. The classical model should be - if not directly replaced - then at least supplemented with a more nuanced conception that conceives of power - and especially informal power - as a natural part of all social relations(Foucault 1977 p.98)²⁸.

In other words, one of the main reasons for the negligence of the political impact of institutions in mainstream IR.-literature is thus that theorists, steeped in a very simplistic Hobbesian cause-effect conception of power, see these - and I am here primarily thinking of manifest institutions in a world of anarchy - as per se powerless because they have no or very limited *formal* sanctioning capacity. Sanctioning power certainly is

²⁸ As Foucault puts it: "...we should direct our researches on the nature of power not towards the juridical edifice of sovereignty, the State apparatuses and the ideologies which accompany them, but towards domination and the material operations of power, towards forms of subjugation and the inflections and utilisation's of their localized systems, and towards strategic apparatuses. We must eschew the model of Leviathan in the study of power. We must escape from the limited fields of juridical sovereignty and State institutions, and instead because our analysis of power on the study of the techniques and tactics of domination". Foucault(1977:98).

important in world politics as elsewhere. What IR. scholars tend to forget, however, is exactly the impact of the 'invisible' disciplinary power found in ongoing routines and day to day practices of institutional life. This is the case no matter whether we are talking about manifest or informal institutions and no matter whether we are concerned with domestic or international politics. Looking at power in this way would include not only the analysis of the working of rules, norms and procedures for correct and incorrect behavior in any organizational setting but also, as March & Olsen have argued, institutional reorganizations, hearing procedures, the invocation of technical jargon and organizational structure as such (March & Olsen 1984, 1989).

In turning to the more concrete illustration of the usefulness of a constructivist perspective, it will hopefully become even clearer that what we ought to track down when studying European politics today is exactly changes in social empowerment and thereby in institutional rules and norms. The institutional debate is thus not purely academic but has immense empirical relevance.

5. European Legal Integration

- an Unintended Consequence of Rational State action ?

"What is needed is to tackle the more difficult task of imagining what forms of political domination are replacing the State and how they may be legitimating and consolidating themselves in the future".

(Schmitter 1991 p.14)

In order to try to get an idea of whether what we are witnessing in Europe in recent years is in fact some kind of dispersion of power as legitimacy - away from the territorial states and towards other actors - we will have to look more closely at some crucial institutional aspects of the integration process. What I find to be of special importance in this respect is the development of Community norms and their reception at different levels in the system. The purpose of the following discussion is, however, somewhat broader in the sense that we will have to try to figure out whether we, inspired by the framework developed above, will be able to gain new *theoretical* insights into the dynamics of the process. More to the point, I will in this section attempt to illustrate that this is, in fact, the case. Giddens' theory of unintended consequences of initially rational actions and his ideas of the recursive relationship between actors and structures, hold, I would argue, potential for explaining the somewhat contradictory but still interrelated developments that have characterized - and probably will continue to characterize European integration. As stated at the outset of this paper, the thesis will be that the integration process (here understood as the penetration of EU norms into the national legal

order) has gone much further than what was (and perhaps still is) the original intention of the member-states. This has, I will argue, primarily been due to the fact that actors ability to control institutional processes is much more limited than what is assumed in rationalist approaches. The Rome Treaty was - exactly just that - a 'treaty' like many others well known from international law(see Taylor 1991). However, although it has been - and still is - ignored by most IR. theorists and of course especially by intergovernmentalist approaches to European integration - Community laws, norms, rules and institutional practices - as they have evolved over time have changed the *character* of the Community and thus the state to state relations. There has been no - or very few - formal changes in the legal status of the original treaties but, when looking at the degree of Community-law-penetration into the domestic spheres of the member-states the effects have gone far beyond the type we normally attribute to a international legal arrangement. It is crucial to stress that the degree of formal regulation only captures the tip of the iceberg. Still the formal regulation alone has in its effects and especially its overall positive reception contributed to a significant transformation of the status and legitimacy of Community norms at all levels. As Weiler puts it:".... 'constitutionalization'..to a large extent *nationalized* Community obligations and introduced on the Community level *the habit of obedience* and respect for the rule of law which traditionally is less associated with international obligations than national ones"(Weiler 1991 p.2421-2422)²⁹. This, however, has nothing what-so-ever to do with either harmony of interest *or* strategic choices on behalf of interest-groups(or states as

²⁹ Authors emphasis.

Garrett and many other rationalists would suggest). What it does indicate is, in line with the argument put forward in section 4, an un-unidirectional and contingent interplay between agents and structures in institutional processes together with a more subtle transformation of legitimacy and empowerment of new actors. An empowerment that nevertheless is diffuse and constantly challenged. As one scholar have suggested, one of the paradoxes of regulation in the EU as it has recently developed, is that those very states that have sought to pertain their sovereignty and accused the EU-bureaucracy for over-regulation, have been at the front-line in 'asking' for more harmonization and regulation(Majone 1994 p.66)³⁰. This paradox indicates that there must be some kind of discrepancy between the long-term strive of autonomy and the short-term quest for concrete problem solving.

What I am interested in in this context is, as noted above, the consequences of the normative embeddedness of the member-states for theorizing about European integration. In the following analysis I will argue that the penetration of EU legal norms into the member-states has tremendous consequences for the causal explanatory framework employed the by now conventional rationalist theories of policy-making in the Community. My argument will be that the normative process makes the bed rock of an rational-institutionalist position more and more unconvincing, that is, the argument that the member-states are - or even *perceive* themselves to be -

³⁰ Majone notes that even though the opposite it often stated, the majority of suggestions for new regulations does not originate in the Commission but come from the Council and individual member states - together with the European Parliament and various interest groups. In fact Majone argues that only 6 per cent out of 500 recent directives and regulations were what he calls 'spontaneous initiatives of the Commission' (Majone 1994 p. 66).

left with a real choice of 'exit' - to utilize Weilers reference to 'Hirshmann's-distinction' between exit, voice and loyalty(see Weiler 1991 p.2411; Hirschman 1970).

5.1 Sovereignty Revisited

It would probably also be in place already at this point to note that the position taken here differs in its microfoundations and, thus, in its causal explanatory line of argument from the analysis of the political impact of European legal integration, launched by Burley & Mattli(see Burley & Mattli 1993). In their 'Europe Before the Court: A Political Theory of Legal Integration' they developed an analysis of European legal integration based on neofunctionalism. They especially put stress on the theory's idea of what forces, above and below the state, actually enhance integration. However, in my view their story is both far too unidirectional and far too simple. What they launch is in fact a 'conspiracy theory' that directs our attention to the deliberate attempt - and success - of the ECJ to speed up integration thereby strengthening its institutional power and the professional prestige of the judges. In its straightforward cause - effect explanation the thesis is quite seductive - but as I will argue- relying with Weiler on a more 'legal contextual approach' - this explanation is 'simply

too simple'. It should not be too difficult to see where our point of disagreement lies considering my anti-utilitarian reflective institutional point of departure (see section 4). It is also interesting to note how Burley & Mattli in their critique of Weiler's much more complex interpretation of the same process, glorify the simplicity of their own rational-choice-like microfoundations. Not only do they invest quite some time stressing how the explanatory maxim in rational choice theory - 'individuals maximization of self-interest' - can be married with neofunctionalism, but they also (and again like our rational-institutionalist friends above) see a virtue in launching social science theories and explanations that are as 'parsimonious' and general as possible (see Burley & Mattli 1993 p. 43-49)³¹. In sum, as it will become clearer below, one can say that I, in the present explication, 'defend' the contextualists against Burley & Mattli's purely interest-based analysis.

In the following attempt to show that integration has resulted in the change of some more basic rules of the game in European politics and that this, as Ruggie argued, has given the European construct a fundamentally different character, it will be fruitful to try to remind ourselves what has traditionally been implied by sovereign statehood. Sovereignty is of course an endlessly contested concept, the meaning of which changes depending on whom you ask. Neorealists - and intergovernmentalists - would thus claim that European integration has not so far implied any surrender of sovereignty because the term only - or at least at the end of the day - should be defined in security-terms. This argument has recently

³¹ Their main point of disagreement with rational-institutionalist explanations is thus whose rational interests is actually driving the integration process forward: The ECJ and national judges or maximizing states.

been launched by Ole Wæver in an article where he even contends to be able to solve the sovereignty puzzle in contemporary integration theory(Wæver 1995). He furthermore argues that it is unfruitful to make a classical legal definition of sovereignty the basis for evaluating the degree of integration because it will be so easily falsifiable. Clearly, with such a point of view very few changes in European politics can be detected. Wæver does suggest however, that what we should look for is not the dissolution of the states in Western Europe but changed meanings of sovereignty - and with this I certainly agree. In order to get an impression of the impact and reception of normative/legal regulation in different sectors at the national level it is thus useful to explicate how most up-to-date IR.-scholars (and probably also most lawyers) still define sovereignty - in the 1990's. Within legal theory one often refers to the legal positivist John Austin (1832) when a classical conception of the status of the sovereign vis-a-vis the legal international order, is to be established(See Austin 1954(1832) p. 201,347). Austin would agree completely with a rational-institutionalist position in that it would be a contradiction in terms to argue that sovereignty can be divided. The source of law can only be the particular sovereign. This implies of course that power and territory must be closely linked(see also MacCormik 1993 p. 16). However, it is not only among deceased legal positivists and modern rational choice people we encounter such a conception of sovereignty. The IR. scholar James Mayall (an English school representative) is a good example of this. He has recently argued that a state can only be said to be sovereign when there is "a single authority

within the state and no one above it"(Mayall 1990 p. 19). Four elements are, as he sees it, required in order for a state to call itself sovereign:

- 1) States equal and independent status in international society.
- 2) States ability and possibility to be self-policing, which means that there should be a monopoly on law-making and a monopoly on the use of force in as well as outside the state-border.
- 3) Territoriality will be closely connected to the state as an actor.
- 4) Non-intervention from other states or organizations in the states internal affairs.

Not very surprisingly, looking at Europe today not many of these requirements are fulfilled at the member-state level. Nor would the definition fit the EU as a whole, however.

5.2 The Unintended Constitutionalization of EU Law

It might seem almost blasphemous in a short section like this even to attempt to say anything meaningful about the impact of EU-law and norms on European integration. Several competent books have been and are continuously written on this highly complex topic(see Snyder 1990, Snyder (eds.) 1993; Dehousse (eds.) 1994; Rasmussen 1986,1994). With solid help from Joseph Weiler (1981,1991,1994) and others I shall nevertheless try to show why it is true to say that EU law and normative regulation have penetrated much further into the domestic legal sphere of

the member-states than was originally expected by the contracting parties. The purpose of this rather short elaboration will be twofold. Firstly, with direct reference to my introduction to stress the insufficiency of those political science approaches to European integration that discards the legal dimension. Secondly, to emphasize the *empirical* limitations of those IR. theories of integration where intergovernmental bargains are given sole explanatory status. An implicit agenda is thus to demonstrate the relevance of a more sociological approach to integration. It is in other words important to note that what I seek here is *not* to approximate any in depth description of the recent development in European union law.

If we take a short glance at the original Treaty of Rome it becomes quite clear that even though the founding fathers talked about the development towards an 'ever closer union of the European people', the Treaty resembled most of all a traditional economic agreement concluded between sovereign states under international law. Several 'sovereignty-protecting measures' were explicated for instance the 'legality-principle' (art.4) which was meant to secure that all laws issued by the Community should originate directly in the Treaty(Rasmussen 1993 p.1ff). What does this mean ? It means that there was nothing in the treaties that anticipated the development of a case-law-based constitutional system as has been the actual result of 40 years of practice by the European Court of Justice. However, apart from the Court-produced case-law (which tends to be what lawyers always focus on because it is so easily traceable empirically), the EU legal system now contains several unwritten constitutional principles. As one legal scholar has noted:"...in reality, the majority of the

EU's most important and most basic constitutional principles are not to be found in the treaties; nor are they to be found in writing anywhere else"(Rasmussen 1994 p. 280-281)³². I will get back to some of these by now basic constitutional principals below.

One of the most striking things about the normative development of the EU for a political scientist - or at least for an IR. scholar - is of course its consequences for national sovereignty(see section 3). It can in fact be argued that IR. - as an independent social science discipline - is identical with this single principle (Onuf 1989; Bartelson 1995; Wind 1996a; Wind forthcoming). Weiler have argued that the depth and formality of this process, including the changed perceptions of correct and incorrect behavior by national actors on different levels, has resulted in what he calls 'a closure of selective exit' for the member-states. Perhaps not formally - but in practical terms. However, the reason why no (or so extremely few) political scientists have found it worth while paying attention to the radicalness of the legal development for national sovereignty and consequently for the applicability of a pure intergovernmentalist approach to integration, can perhaps be traced to the fact that the 'hardening' of Community law into more and more binding regulation - historically - coincided with a parallel fragmentation - or an increase in 'voice' - in the political sphere in the 1960's. The latter was exactly what political scientists have paid attention to. Such a narrow perspective obviously doesn't give a satisfactory explanation of what actually happened. When looking for changes in loyalty and thereby in the social empowerment of new political actors in the system over time, the

³² My translation from Danish.

parallel development in the political and legal sphere is more than just puzzling. It thus becomes necessary to try to figure out - firstly, what actually took place in the two spheres from the 1960's onwards and secondly how and why the increased normative binding came to be accepted at the national level in the first place. It is certainly possible to argue with Burley & Mattli that the intensity and depth of normative-legal integration has been caused by legal activism of ECJ. But - as noted above - I find this explanation far too straightforward. In line with the constructivist position outlined above I will argue, that what we are dealing with here is a much more subtle recursive process. Even though the development in legal integration was not expected or even wanted by the member-states, they have to a large extent - though perhaps implicitly - 'made new sense' of this normative binding. It would be completely wrong to hold that such 'new sense' resulted from a Big Bang harmony of interest (as would be argued by neofunctionalism) where states deliberately endorsed the direction of the process. Nor is there any evidence that the states - even though they objected to several ECJ-rulings - have tried to limit the power of the Court through changes in the Treaty. Looking at other norm-producing institutions such as the Commission and EU-agencies, this picture doesn't change. As noted above, in spite of the fact that member states have publicly criticized the Commission for being almost obsessed with detail-regulation in several areas and consequently left little self-determination to the national and sub-national level, this 'demand for detail' has to a very large extent come from the member states themselves. One of the main reasons for this rather paradoxical development was the pathbreaking *Cassis de Dijon* judgement (Case

120/78) which provided for the *mutual recognition* clause. The implication of the Cassis was thus, that in stead of costly and bureaucratic harmonization measures in preparation for the single market, all member states were obliged to let goods accepted in the country of origin have unlimited and undiscriminatory access to market of all other member states. The more developed member states, with for instance a higher product-safety policy, feared that the mutual recognition principle would lower the health and safety standards in Europe altogether because products with lower standards would be purchasable in all member states - most often to a much lower price. This thus made more developed member states in particular favour more detailed and much stricter old-style harmonization instead of the more market-based deregulatory mutual recognition approach (see Alter & Meunier-Aitsahalia 1994). An other reason why many member states have supported detailed harmonization-measures instead of mutual recognition was the belief that more detail - because of the higher degree of specification - would hinder to wide 'interpretation-gaps' between the countries (Majone 1995).

There thus seems to be something contradictory in the member states' rather smooth acceptance of the normative binding - least if one adopts a rational-institutional framework where states are expected jealously to guard their independence and at the same time seek cost-efficiently to maximize their individual utility. Weiler summarizes this paradox in the following manner:

"Although the governments of the member states of the European Community (EC) have always had a principal role in fashioning EC policies and norms, from the 1960s through the 1980s the

European Court of Justice played a key role in imposing a compliance regime with these norms that has resembled in its structure and rigour the constitutional order of a federal state. To an extent unprecedented in other international organisations, states have found themselves locked into this regime and unable to enjoy the more common international legal compliance latitude. Interestingly, member state courts, legislatures, and governments seemed, by and large, to accept the new constitutional regime 'imposed' by the European Court with a large measure of equanimity - a veritable 'quiet revolution'(Weiler1994 p. 510).

To put it differently, is it at all possible - theoretically - to explain the member-states endorsement of such an unprecedented constitutionalization that - as Keohane and Hoffmann have noted:" has gone farthest in limiting national autonomy"³³ than any other individual part of the community system ? If states really want to preserve their autonomy why did they in fact accept the radical juridical activism of the ECJ ? Why made them adopt the many unwritten constitutional principles that were never originally in the treaties but which never the less limits their autonomy considerably for instance by making EU-law directly applicable and even supreme inside their own state-border ? And why have the member states subsequently accepted their own national courts and national administrative systems readiness to co-operate with the Court and the Commission in this process ?

For political scientists it might not be quite clear what the implications of a 'constitutionalization' of EU law are. I will not go too much into the details here, but a few core concepts should be highlighted.

³³ In R. Keohane & S. Hoffmann (1991).

What is important is that although the EU, as I emphasized above, like any other international organization - originally was - and indeed still is - based on an international treaty (and not a constitution), EU law has over the years - through the development of the ECJ's case-law - developed from resembling classical international law and come to look more and more like the type of law that we normally attribute to federal states (Rasmussen 1986, 1993, 1994). Two concepts - taken together - account for this: 'the doctrine of direct effect' (van Gend en Loos 26/62) and 'the supremacy clause' (Costa v. Enel 6/64). As Weiler makes clear there is nothing new in the doctrine of direct effect in itself as compared to classical international law. All international law is - at least in principle - directly applicable, the caveat being that in classical international law, states decide themselves whether they wish to incorporate it into the domestic legal order - and abide by it. This is not the case in the EU as it looks today, not so much because of the direct effect in itself as in its combination with the 'supremacy clause'. Unlike in federal constitutions there were no written references to supremacy or direct effect in the original treaties of the Communities. The clauses were both established by case-law and legitimized through the political objectives of the internal market. Supremacy implies the following:

"In the sphere of application of Community law, any Community norm, be it an article of the treaty..or a minuscule administrative law regulation enacted by the Commission, 'trumps' conflicting national law, whether enacted before or even after the Community norm" (Weiler 1994 p. 512).

Even though both the Italian Corte Costituzionale, the French Conseil d'Etat and - as G.F Mancini notes "a couple of English law lords" - initially fought against the supremacy doctrine rendering it unconstitutional, it was nevertheless only a few years later fully accepted (Mancini 1991 p. 180-181). As Weiler points out, it is at this point that the full implications of the doctrine of direct effect becomes clear. As opposed to classical international law where the parliament in a member state, if it is dissatisfied with a certain provision, can set it aside by either legislating against it or just not implementing it, this has become impossible in the Community legal order due to the supremacy clause. This means that any Community ruling - because of the doctrine of direct effect - will automatically become part of the member states legal order, whether the member state's parliament like it or not. As Weiler puts it: "Parallels to this kind of constitutional architecture may only be found in the internal law of federal states" (ibid.). Still, this is not all there is to say about the constitutionalization of the European legal process. The effect of the supremacy clause and the doctrine of direct effect could not have obtained the present influence on national legal orders had it not been for three additional elements: the ECJ's alliance with individuals, with national courts and - as noted above - without the unique passiveness of member state governments. The effectiveness of community law has especially been due to the first two elements, while the governments reaction/or lack thereof - can be seen as an important underlying background condition. That EC law have become the 'law of land' has in other words implied that it has become difficult for member states to

refuse to implement it³⁴. If member states either do not fulfil or directly violate Community law, individuals who might be effected by a violation or non-implementation may take their own governments to court. And as Weiler puts it: "Here we are faced with a bald political fact: A member state - in our Western democracies - cannot disobey its own courts"(Weiler 1994 p.515). Burley & Mattli have described the radicalness of this development:

"By 1965, a citizen of a community country could ask a national court to invalidate any provision of domestic law found to conflict with certain directly applicable provisions of the treaty. By 1975, a citizen of an EC country could seek the invalidation of a national law found to conflict with self-executing provisions of community secondary legislation, the 'directives' to national governments passed by the EC Council of Ministers. And by 1990, community citizens could ask their national courts to interpret national legislation consistently with community legislation in the face of undue delay in passing directives on the part of national legislators" (Burley & Mattli 1993 p. 42).

However, as hinted at above, individual access to invocation of community law would not have been effective had not the national courts also been willing to co-operate. The important article here is Art. 177, which makes it possible (and in several instances even obligatory) for a national court - in any question of doubt of a national law's status in relation to the EC legal order - to set it aside and ask for a preliminary ruling from the ECJ. The ECJ will then consider whether the national law is or is not

³⁴The Treaty of the European Union now makes it possible for the Court to sanction non-implementation through fines.

consistent with the EC-treaty. In recent cases like *Simmertal* (106/77), *Blaizot* (24/86) and *Francovich* (joined cases C-6 & C-9/9) the Courts power to review even national constitutional law were further institutionalized(see Rasmussen 1994; more generally Shapiro & Stone 1994). Because the national courts over the years in fact incorporated all ECJ rulings into the law of the land, both the direct and indirect impact has been immense. The importance of letting the national court - and not an 'international super-Leviathan' - like the ECJ - be the practical guardian of EC law can hardly be overestimated(Weiler 1993). The collaboration between the ECJ and the national courts has in effect been integrated into what Weiler calls: "a unitary system of juridical review"(Weiler 1994 p.515). The important thing to stress is thus that the national courts adopted the ECJ rulings with very little hesitation(see also Weiler 1981). In order to get a complete picture of the domestication of Community norms and obligations and of the normative embeddedness of the EC system in general, one should of course also stress the influence of the Commission and its increasing use of soft-law (recommendations, communications and so on) in regulating in areas not covered by the Treaty - through Art 235³⁵. In questions of doubt as to whether the Commission actually 'had the right' to interfere and regulate a given issue, the case could be brought before the Court and there be either rejected or confirmed. In this way the Commission have often 'used' the Court to get a 'blue print' for new regulatory initiatives. One legal scholar has noted that since 1972, the ECJ has in more than 500 instances, extended the

³⁵ See F.Snyder,(1993).

Community competence though this provision³⁶. Together with the increase in majority voting with the SEA and Maastricht, it becomes increasingly difficult to hold on to the contention that the 'exit' possibilities and thereby also sovereignty, as is conventionally understood in IR. theory, has not been radically effected by this development. What is interesting here is thus not so much that the individual governments, if they had truly wanted to, could not have convinced their courts (and administrations) to be more nationalistic in their juridical practices or that governments could not have argued for a politicization of the ECJ - implying for instance that judges be politically nominated in the future - like in the US. *The interesting thing is exactly that this has not happened.* As Weiler puts it: "...the Court's rulings are as significant as any constitutional change introduced in the Single European Act or the Maastricht Treaty. One could have expected some fierce opposition"(Ibid. p. 516). Furthermore, as Burley and Mattli show in their article and as I tentatively hinted at in section 2 in my critique of the rational-institutionalists explanation of the ECJ, the governments did in fact in several instances object strongly to the ECJ's provisions. However, all examples show that over time the same governments accepted the rulings and simply came to regard them as the 'new order of the day'(Burley & Mattli 1993 p.51).

The relative and apparent passiveness of governments and their implicit willingness to accept even a closure of 'selective exit' without taking any measures against the ECJ, is thus difficult to comprehend wearing conventional IR.-glasses.

³⁶ See R. Nielsen, Politiken d. 17/5 1993.(Danish newspaper)

When studying European integration, lawyers and political scientists have - as Weiler quite correctly stresses and as I noted briefly above - seen two completely different 'realities'. The political scientists - focusing on the 'power-politics' of the Council concluded that we were faced by a clear move towards intergovernmentalism in the 1960s and 1970s. The Luxembourg crisis in 1965/66 being perhaps the most glaring example (see Hoffmann 1966). No one would argue that we witnessed serious crisis in the Council in this period, where DeGaulle, after a breakdown in negotiations over the CAP, the EC-budget and perhaps especially majority voting in the Council, paralysed the political decision making process by refusing to let his ministers participate in any legislation for 6 months. The result was the famous Luxembourg compromise in January 1966 where it was decided that states could veto any legislation that impinged on a member states so-called 'vital interests'. However, when trying to make sense of the integration process in the late 1960's and onwards a narrow focus on the political crisis in the Council far from catches the entire picture. If we move to the lawyers analysis of the integration process on the other hand, the world looks probably far too rosy. Many EC lawyers came to the scholarly study of the European Community with a training in international (and not domestic) law. What they saw was a normative integration that went far beyond anything seen previously in their former field and many lawyers characterized the development in Community law in the 1960's and 1970's as the 'Heroic' Period' (Weiler 1991 p. 2428). What is interesting about these insights, however, is not so much that lawyers and political scientists disagree - there is not much new in that - but that they are both right. There was a relation - but as Weiler

sees it - *not* (as suggested by Burley & Mattli in their 'conspiracy theory') any simple causal relation between the contradictory developments in the legal and political spheres in this period. In line with the reflective institutional theory of transformations in social systems, one can see European integration as a product of conscious bargains among heads of states *as well as* an unintended and uncontrollable normative process (see also Eisele 1992 p.29-58)³⁷. As Weiler puts it:

"Instead of a simple (legal) cause and effect and (political) effect, this subtler process was a circular one. On this reading, the deterioration of the political supranational decisional procedures, the suspension of majority voting in 1966, and the creation and domination of intergovernmental bodies such as COEPER and the European Council constituted the political conditions that allowed the Member States to digest and accept a process of constitutionalization. Had no veto power existed, had intergovernmentalism not become the order of the day, it is not clear to my mind that the Member States would have accepted with such equanimity what the European Court of Justice was doing" (Weiler 1991 p. 2428-2429).

It seems, however, that Weiler here in fact does invoke a typical 'equilibrium' explanation for institutional developments. This in spite of his - at least implicit - emphasis on recursiveness. When he argues that the dynamics in the one sphere was dependent on the development/fragmentation in the other, no changes in state identities and

³⁷ T. D. Eisele has in his revealing piece on Wittgenstein and legal theory, argued, that the Common law in particular was developed in such a 'learning' - or if one prefers 'trial and error' logic.

interests or in social empowerment can have taken place³⁸. From a constructivist point of departure such a conclusion is problematic. It seems more convincing to argue that even though states perceived (and probably still perceive) themselves to be guarding the integration process they had in fact 'incorporated' the reduced possibility of exit into their own action-choices. It is thus possible to see the normative integration as legitimizing new practice-rules and norms and that these over time had a significant impact on the character of inter-state bargaining itself. As also noted above, had there been no such changes in legitimacy and social empowerment one could indeed have expected that the member states when they fully realized that legal development had gone further than what was originally expected, would have tried to do something about it - for instance politicize the ECJ.

As Weiler argues in his article from 1994, several normative issues are at stake. They certainly make it difficult to work with simple causal explanations - whether neofunctionalist or rational-institutionalists - both firmly committed to utilitarian interest-analysis. A suggestive explanation would include reflection on the following issues:

1) The status of law as something sacred that can not be criticized:

Both in trying to understand the national courts and the government's reception of formal as well as informal legal integration, the status of law in the European tradition, should not be underestimated. Law - in general - but especially practice-based case-law is about the production of norms through legitimation, reconfirmation and interpretation of the past (See Yablon 1992 p.249-264). As Weiler argues:

³⁸ I thank Alec Stone for this point.

"Legal formalism retains a very substantial power in European jurisprudence, and the overall content of the ECJ jurisprudence seemed (or must have seemed) to reflect a plausible reading of the purposes of the treaty to which the member states had solemnly adhered"(Weiler 1994 p. 521).

2)'We better do what everybody else does' - 'Judicial Cross-Fertilisation': Also this is about the 'authority of law'. There was a 'trend' in European national courts to comply with ECJ rulings and to utilize Art. 177. Though not without hesitation. The tendency to allow supranational courts to interfere in domestic affairs 'must' also, I would argue, explain at least to some extent the governments relative passiveness.

3)Furthermore, the readiness to accept the ECJ and supranational law- making in general might very well have to do with Western European culture. In the Western European democratic tradition the idea of the separation of powers has given courts, and law more generally, a privileged objective status. This clearly differs from the role and status of the US Supreme Court, however. In many European legal traditions, juridical review and generally the political aspect of litigation have been less common³⁹. The 'politics' of the ECJ might have benefited from this.

A full picture of changes in power as legitimacy and an eventual 'Transformation of Europe' will however have to include several additional elements. Apart from the need to go more into depth with the reception of the legal aspects of integration including the derived effects

³⁹ This differs probably between those countries which have constitutional courts and those that don't. To this comes that some European countries, for instance Germany, has a tradition for juridical review.

on rules, norms and practices at all levels - an analysis of domestic as well as external constraints at the international level, will of course have to be included. To this comes more careful studies of the role of the Commission and the often unintended reciprocal interplay between the Commission and the Court (see Snyder 1993 p.9)⁴⁰.

The impossibility of explaining normative developments from rationalist models is well known. However, rationalist approaches would neither provide us with any innovative suggestions as to where the whole integration process might end up. From a conventional theoretical point of view, very few changes can in fact be detected. Not everyone in the IR field endorses this view, however. According to Ole Wæver what we are experiencing in Europe is:

" not just confusion, but a logical confusion. The key variable, the organizing abstraction - territorial sovereignty - has lost its grip, and all the concepts hinging on it are sliding, too. This does not necessarily mean that all International Relations theory is falling with it. It only means that we have to be extremely careful in sorting out the elements that are bound (by this specific configuration), and those that are more general (even if not universal and totally transhistorical)" (Wæver 1991 p.3).

⁴⁰ Adopting Giddens thesis of the relative autonomy of institutions and the processes of recursiveness, Snyder stresses in particular this point in following manner: "The interaction between the Commission and the European courts is not...merely a process of reciprocity. Instead it is recursive: it involves the reproduction of both institutions and norms, and the processes of reproduction occur in and by means of practices which are organised by these institutions and norms" (Snyder 1993 p. 9).

"..post- 1992 EC will not be...at least not for the foreseeable future a nation with a supraordinate sense of identity, rooted in common symbols and experiences...It will (neither) be ..a state, at least not in the strict sense of the term..that uniquely controls the concentrated means of coercion within a given territory, that exclusively claims the right to control the movement of people and goods across its boundaries...Ergo, the potential misleadingness of efforts to (re)interpret the EC as the concatenation and /or culmination of the historical process of state-building in Europe"(Schmitter 1991 p.2).

This essay has discussed the dynamic yet paradoxical interplay between what Joseph Weiler has termed 'decisional supranationalism' on the one hand and the 'constitutionalization' of the legal sphere in the European Community on the other(Weiler 1981, 1991). The two dimensions constitutes a theoretical puzzle for political scientists as well as for lawyers in that they describe the integration process as moving in completely opposite directions. If one focuses on the political sphere alone, the EC was increasingly intergovernmentalized from the mid 1960's onwards and could thus best be characterized as a classical international organization. If we turn to the legal sphere of the Community on the other hand, the picture looks quite different. What we have witnessed here in the same period is a gradual but steady move from international to constitutional law. Lawyers and political scientists have thus envisioned two completely distinct European 'realities'. The discussion above have put this paradox in a sociological perspective. It has been argued that we need to turn to a constructivist approach in

order to grasp the dynamic interplay between purposeful action in social systems and the often unanticipated effects of institutional developments when seen in historical perspective. The member-states quite clearly continue to have a lot to say in the bargaining processes of the European Community. They are and remain prominent (and most visible) actors. However, by merely focusing on what goes on at the strictly political level i.e. in the decision making/treaty-making processes, mainstream IR. approaches like intergovernmentalism, overlook the deviation between initial decisions and the *unintended effects* of these decisions when seen in historical perspective. What intergovernmentalist theories of European integration have neglected is what goes on *in between* the grand bargains such as the Rome Treaty, the SEA and Maastricht. When seen in historical perspective, unanticipated developments more often than not change the design of its original treaty-framers.

Theories that claim to be able to explain and understand transformations in social systems, should - at least try - to keep up with the empirical 'reality' that they seek to capture. Seen in this light, conventional IR.theories of European integration do not seem to have much to offer. The historical and unproblematized individualist microfoundations imply a simplistic and per se unchangeable concept of sovereignty is thus fundamentally unequipped to detect any kind of transformations in power as legitimacy. The question is, in other words, whether we in IR. as well as in other fields dealing with European politics today, should continue to let outdated disciplinary divisions and static

analytical frameworks - nice and simple as they may be - define the ideal of good social science ?

"...a comprehensive transformation of the European nation state will be possible only after major political struggles with uncertain outcomes...'governance' largely will involve winning peoples mind, of coaxing them towards different beliefs about possible and appropriate institutional alternatives...(T)he current process of European integration may represent a watershed in the history of the European nation state".
(Olsen 1992 p. 235).

References:

- Alexander J.(1982),*Theoretical Logic in Sociology, vol. 1: Positivism, Presuppositions, and Current Controversies*. Berkeley:University of California Press.
- Alexander J., B.Giesen, R. Münch & N.J. Smelser,(1987),*The Micro-Macro Link*, Berkeley: University of California Press.
- Alter,K. & S. Meunier-Aitsahalia.(1994), Judicial Politics in the European Community: European Integration and the Pathbreaking Cassis de Dijon Decision, *Comparative Political Studies*, 24/4.
- Ashley,R.(1986), The Poverty of Neorealism, in Keohane(ed.), *Neorealism and its Critics*, New York: Columbia University Press.
- Ashley, R. (1987),The Geopolitics of Geopolitical Space: Towards a Critical Social Theory of International Politics, *Alternatives*, vol. 12/4.
- Austin,J.(1832)(1954),*The Province of Jurisprudence Determined*, London: Weidenfield & Nicholson, London.
- Axelrod,R.(1984), *The Evolution of Cooperation*, N.Y.: Basic Books.
- Axelrod,R. & R. Keohane,(1986), Achieving Cooperation under Anarchy: Strategies and Institutions, *World Politics* vol. 38.
- Baldwin,D.(ed.).(1993), *Neorealism and Neoliberalism*, New York: Columbia University Press.
- Bartelson,J.(1995), *A Genealogy of Sovereignty*, Cambridge: Cambridge University Press.
- Behnke,A.(1993),*Structuration, Institutions and Regimes: The Case of the CSBM*, Stockholm International Studies, 93:1.
- Behnke,A.(1995), Ten Years After: The State of the Art of Regime Theory, *Cooperation and Conflict*, London: Sage vol. 30/2.
- Bhaskar, R.(1979), *The Possibility of Naturalism. A Philosophical Critique of the Contemporary Human Sciences*, Hempel Hempstead: Harvester Press.
- Bull,H.(1977),*The Anarchical Society: A Study of Order in World Politics*, London: Macmillan.

- Bundgård-Pedersen,T.(1995), Approaches to European Harmonization and Standardization. Problems of the Debate and Polycentric Institutionalization. *COS- Workingpaper* no.1/95.
- Burley,A.M.(1993), Regulating the World: Multilateralism, International Law, and the Projection of the New Deal Regulatory State, in J.G. Ruggie(ed.), (1993), *Multilateralism Matters: The Theory and Practice of an Institutional Form*, New York: Columbia University Press.
- Burley,A.M. & W.Mattli.(1993), Europe before the Court: A Political Theory of Legal Integration, *International Organization* vol. 47, 1.
- Cameron,D.(1992), The 1992 Initiative: Causes and Consequences, in Sbragia (ed.), *Euro-politics: Institutions and Policymaking in the New European Community*, Washington D.C: The Brookings Institution.
- Cammilleri, A.(1990), Rethinking Sovereignty in a Shrinking, Fragmented World, in Walker & Mendlovitz (eds.), London: Lynne Reinner Publishers.
- Caporaso J.(1993a), International Relations Theory and Multilateralism, in J.G. Ruggie (ed.), *Multilateralism Matters: The Theory and Practice of an Institutional Form*, New York: Columbia University Press.
- Caporaso,J.(1993b), Toward a Sociology of International Institutions: Comments on the articles by Smouts, de Senarclens and Jönson, *International Social Science Journal*, no. 138.
- Carlsnaes,W.(1992),The Agent-Structure Problem in Foreign Policy Analysis, *International Studies Quarterly*, vol. 36/3.
- Carlsnaes,W.(1993), On Analyzing the Dynamics of Foreign Policy Change: A Critique and Reconceptualization, *Cooperation and Conflict*, London: Sage vol. 28/1.
- Coase,R.(1960), The Problem of Social Cost, *Journal of Law and Economics*, 3.
- Cohen,R.(1981), *International Politics: The Rules of the Game*, London: Longman.

- Cornett,L. & J. Caporaso.(1992) And Still it Moves ! State Interests and Social Forces in the European Community, in Czempiel & Rosenau (eds.),*Governance without Government*, Cambridge: Cambridge University Press.
- Dehousse,R.(1989), *The Institutional Dimension of the Internal Market Programme*, Florence: European University Institute.
- Dehousse,R.(ed.)(1994), Christian Joerges, Giandomenico Majone,Francis Snyder, Europe After 1992: New Regulatory Strategies. *EUI Working Paper Law*, no. 92/31.
- Dehousse,R. & G. Majone.(1993), The Dynamics of European Integration: The Role of Supranational Institutions, Paper presented at the European Community Studies Association Thord Biennial International Conference, May 1993.
- DerDerian,J.(1987), *On Dipolmacy: A Genealogy of Western Estrangement* Oxford: Basil Blackwell.
- Dessler,D.(1989),What's at stake in the agent-structure debate ?, *International Organization*, 43/3.
- DiMaggio,P. & W.Powell.(1991), Introduction, in Powell & DiMaggio (eds.), *The New Institutionalism in Organizational Analysis*, University of Chicago Press.
- Eisele,T.D. (1992), "Our Real Need": Not Explanation, But Education, in D. M. Patterson (ed.), *Wittgenstein and Legal Theory*, Boulder: Westview Press.
- Foucault,M.(1977), *Power/Knowledge : Selected Interviews & Other Writings: Two Lectures*, New York: Pantheon Books.
- Garrett,G.(1992), International Cooperation and Individual Choice: The EC's Internal Market, *International Organization*, 46.
- Garrett, G.(1995), The Politics of Legal Integration, *International Organization* , 49/1.
- Garrett,G. & B. Weingast.(1991), Ideas, Interests and Institutions: Constructing the EC's Internal Market, unpublished .
- Giddens,A.(1979), *General Problems in Social Theory*, London: Macmillan.
- Giddens,A.(1985), *The Constitution of Society*, Cambridge: Polity Press.

- Grendstad,G. & P. Selle.(1995), Cultural theory and the New Institutionalism, *Journal of Theoretical Politics* , 7/1.
- Grieco,J. (1988),Anarchy and the limits of Cooperation: A realist critique of the newest liberal institutionalism, *International Organization*, vol. 42/3.
- Grieco,J.(1990), *Cooperation among Nations. Europe, America, and Non-Tariff Barriers to Trade*, Ithaca/London.
- Grieco,J.(1991), The Renaissance of the EC and the Crisis of Realist International Theory, *Duke University, Working Paper no. 151*.
- Haas,E.B.(1964), *Beyond the Nation-State*, Stanford: Stanford University Press.
- Harré,R.(1981), Philosophical Aspects of the Micro-Macro Problem, in Knorr-Cetina & A. Cicourel (eds.), *Advances in Social Theory and Methodology: Toward an integration of Micro- and Macrosociologies*, London: Routledge & Kegan Paul.
- Hart,H.L.A.(1961), *The Concept of Law*, Cambridge: Cambridge University Press.
- Held,D. & J.B.Thompson. (eds.).(1988), *Social Theory of Modern Societies: Anthony Giddens and his Critics*, Cambridge: Cambridge University Press.
- Hertz,J. (1950),Idealist Internationalism and the Security Dilemma, *World Politics*, vol. 2/2.
- Hinsley,F.H. (1966),*Sovereignty*, London: C.A Watts & Co.
- Hirschman,A.(1970), *Exit, Voice, and Loyalty - Responses to Decline in Firms, Organizations, and States*, Cambridge Mass.
- Hollis,M. & S.Smith.(1991), *Explaining and Understanding International Relations*, Oxford: Clarendon Press.
- Hoffmann,S.(1966), Obstinate or Obsolete ? Reflections on the Nation-State in Western Europe, *Dædalus*, no.95.
- Hoffmann,S.(1982), Reflections on the Nation-State in Western Europe Today, *Journal of Common Market Studies*, XXI 1/2.
- Howe,G. (1973), The European Communities Act, 1971, *International Affairs*, 49.

- Katzenstein,P.(1990),Analyzing Change in International Politics: The New Institutionalism and the Interpretative Approach, Workingpaper at Max- Planck-Institut für Gesellschaftsforschung, 90/10.
- Keohane,R. & R.Axelrod,(1985), Achieving Cooperation under Anarchy: Strategies and Institutions, *World Politics* 38/1.
- Keohane,R.(1994), *After Hegemony: Co-operation and Discord in World Politics*, Princeton: Princeton University Press.
- Keohane,R.(1988), International Institutions Two Approaches, *International Studies Quarterly*, vol. 32.
- Keohane R. & S. Hoffmann(eds.), (1991), *The New European Community: Decisionmaking and Institutional Change*, Boulder, San Francisco & Oxford: Westview Press.
- Knorr-Cetina,K. & A.Cicourel, (eds.), (1981), *Advances in Social Theory and Methodology: Toward an Integration of Micro and Macro Sociologies*, London: Routledge & Kegan Paul.
- Knorr-Cetina,K. (1988),The Micro-Social Order: Towards a Reconception, in N.G. Fielding(ed.), *Actions and Structure*, London: Sage Publications.
- Krasner, S (ed.), (1983), *International Regimes*, Ithaca, N.Y.:Cornell University Press.
- Krasner,S.(1988), Sovereignty: An Institutional Perspective, *Comparative Political Studies*, vol. 21/1.
- Krasner,S.(1992),Global Communications and National Power: Life on the Pareto Curve,*World Politics* 43.
- Kratochwil,F. & Ruggie,J.G.(1986), A state of the Art on an Art of the State,*International Organization*, 40/4.
- Kratochwil,F.(1989), Rules, Norms and Decisions: On the Conditions of practical and legal reasoning in international relations and domestic affairs, Cambridge: *Cambridge University Press*.
- Kratochwil,F.(1993a), The Embarrassment of Changes: Neo-Realism as the Science of Realpolitik without Politics, *Review of International Studies* 19(1).
- Kratochwil,F.(1993b), Norms versus Numbers: Multilateralism and the Rationalist and Reflectivist Approaches to Institutions - a Unilateral

- Plea for Communicative Rationality, in J.G. Ruggie (ed.), *Multilateralism Matters: The Theory and Practice of an Institutional Form*, New York: Columbia University Press.
- Lambert, J. (1966), The Constitutional Crisis: 1965-66, *Journal of Common Market Studies*, 4,3.
- Lange, P. (1992), The Politics of the Social Dimension, in Sbragia (ed.), *Euro-politics: Institutions and Policymaking in the New European Community*, Washington D.C: The Brookings Institution.
- Lange, P. (1993), Maastricht and the Social protocol: Why did they do it ?, *Politics & Society*, Vol. 21 no.1.
- MacCormik, N. (1993), Beyond the Sovereign State, *The Modern Law Review*, 56.
- Majone, G. (1994), The European Community as a Regulatory State, Lectures given at the Academy of European Law - July 1994, Florence: European University Institute.
- Majone, G. (1995), Mutual Trust, Credible Commitments and the Evolution of Rules for a Single European Market, *EUI Working Paper*, RSC no. 95/1.
- Mancini, G.F. (1991), The Making of a Constitution for Europe, in Keohane & Hoffmann (eds.), *The New European Community*, Boulder, San Francisco, Oxford: Westview Press.
- March, J. & J.P. Olsen, (1984), The New Institutionalism: Organizational Factors in Political Life, *The American Political Science Review*, vol. 78.
- March, J. & J.P. Olsen, (1989), *Rediscovering Institutions: The Organizational Base of Politics*, New York: The Free Press.
- Marks, G. (1992), Structural Policy in the European Community, in Sbragia, A. (ed.), *Euro-politics: Institutions and Policymaking in the New European Community*, Washington D.C: The Brookings Institution.
- Matlary, J.H. (1993), Beyond Intergovernmentalism: The Quest for a Comprehensive Framework for the Study of Integration, *Cooperation and Conflict*, London: Sage vol. 28/2.

- Matlary J.H.(1994), *The Limits and Limitations of Intergovernmentalism: From Deconstructive to Constructive Criticism*, paper prepared for the ECPR Joint Session of Workshop in Madrid 1994.
- Matlary, J. H.(1995), *New Forms of Governance in Europe ? The Decline of the State as the Source of Political Legitimation, Cooperation and Conflict*, London: Sage vol.30/2.
- Mayall J.(1990), *Nationalism and International Society*, Cambridge: Cambridge University Press.
- Mearsheimer, J.(1990), Back to the Future. Instability in Europe After the Cold War, *International Security*, 15/1.
- Milward, A.(1992), *The European Rescue of the Nation-State*, London & New York: Routledge.
- Moravcsik, A.(1991), Negotiating the Single European Act: National Interests and Conventional Statecraft in the European Community, *International Organization* , 45/1.
- Moravcsik, A. (1993a), Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach, *Journal of Common Market Studies*, 31/4.
- Moravcsik, A.(1993b), Integration International and Domestic Theories of International Bargaining, in P.B. Evans, H.K Jacobsen & R.D. Putnam (eds.), *Double-Edged Diplomacy; International Bargaining and Domestic Politics*, Berkeley/Los Angeles/London: University of California Press.
- Nardin, T.(1983), *Law, Morality and the Relations of States* :Princeton University Press.
- Olsen, J.P.(1992), Analyzing Institutional Dynamics, *Staatswissenschaften und Statspraxis*, Heft 2.
- Olsen, J.P.(1995a), Europeanization and the Nation-State Dynamics, *Workingpaper ARENA*: no. 9.
- Olsen, J.P.(1995b), European Challenges to the Nation State, *Workingpaper ARENA*: no. 14.
- Olson, M.(1965), *The Logic of Collective Action*, Cambridge: Cambridge University Press.

- Onuf, N.G.(1989), *The World of Our Making: Rules and Rule in Social Theory and International Relations*,(1989), South Carolina: South Carolina Press.
- Onuf,N.G.(1994), The Constitution of International Society, *European Journal of International Law* vol. 5, no.1.
- Oye,K.(ed.), (1986), *Explaining Cooperation under Anarchy: Hypotheses and Strategies*, Princeton University Press.
- Peters,G.(1992), Bureaucratic Politics and the Institutions of the European Community, in Sbragia,A. (ed.), *Euro-politics: Institutions and Policymaking in the New European Community*, Washington D.C: The Brookings Institution.
- Philip,A. H.Rasmussen & Anders Torbøl,(1993), (in Danish).Report on the most important legal aspects concerning the relationship between the Treaty of Rome,The Maastricht Treaty and the Edinburgh-agreements, University of Copenhagen: *Core Workingpaper* , Core 6/.
- Putnam,R.(1988), The Logic of Two Level Games, *International Organization* ,42.
- Rasmussen,H.(1986), *On Law and Policy in the European Court of Justice: A Comparative Study in Juridical Policymaking*, Dortrecht: Nijhoff.
- Rasmussen,H.(1993), *Towards a Normative Theory of Interpretation of Community Law*, Copenhagen: CORE - Political Studies.
- Rasmussen,H.(1994),(in Danish), *EU-Law and EU-institutions in Context*, Copenhagen: KARNOV.
- Rittberger,V.(ed.).(1993), *Regime Theory and International Relations*, Oxford: Clarendon Press.
- Ruggie,J. (1989), International Structure and International Transformation: Space, Time and Method, in Czempiel & Rosenau(eds.),*Global Changes and theoretical Challenges: Approaches to World Politics in the 1990's*, Lexington Books.
- Ruggie,J.(1992),Territoriality and beyond: Problematising Modernity in International Relations, *International Organization*, 47/1.

- Ruggie,J.(1993), Multilateralism: The Anatomy of an Institution, in Ruggie (ed.), *Multilateralism Matters: The Theory and Praxis of an Institutional Form*, New York: Columbia University Press.
- Sandholtz, W. & J. Zysman.(1989), 1992: Recasting the European Bargain, *World Politics* 42.
- Sandholtz,W.(1993), Choosing Union: Monetary Policies and Maastricht, *International Organization* ,47/1.
- Sbragia,A.(1992),(ed.), Foreword & Conclusion, in *Euro-politics: Institutions and Policymaking in the New European Community*, Washington D.C: The Brookings Institution.
- Schmitter,P.(1991), The European Community as an Emergent and Novel Form of Political Domination, Workingpaper no. 26, Juan March Institute, Madrid.
- Schmitter,P.(1992), Interests, Powers and Functions: Emergent and Unintended Consequences in the European Polity, *Stanford University, unpublished*.
- Searle,J.(1969), *Speech Acts: An Essay in the Philosophy of Language*, Cambridge: Cambridge University Press.
- Sindal,D. (1985), The Game Theory of International Politics, *World Politics*, vol.38, no.1.
- Shapiro,M.(1980), Comparative Law and Comparative Politics, *California Law Review*.
- Shapiro,M.(1992), The European Court of Justice, in Sbragia (ed.), *Euro-politics:Institutions and Policymaking in the New European Community*, Washington D.C: The Brookings Institution.
- Shapiro,M & A.Stone. (1994), The New Constitutional Politics of Europe, *Comparative Political Studies*, vol. 26/4, Special Issue.
- Snyder,F.(1990),*New Directions in European Community Law*, London: Weidenfield & Nicholson.
- Snyder,F. (ed.), (1993a),*European Community Law vol. I*, Dartmouth: Aldershot.
- Snyder,F.(1993b),Soft Law and Institutional Practice in the European Community, *EUI Working Paper Law* , no. 93/5.

- Snyder,F.(1993b),The Effectiveness of European Community Law: Institutions, Processes, Tools and Techniques, *The Modern Law Review*, 56.
- Stone,A.(1992), Le 'néo-institutionnalisme': Défis conceptuels et méthodologiques, *Politix*, no. 20.
- Stone,A.(1994), What is a Supranational Constitutions ? An Essay in International Relations Theory, *The Review of Politics*.
- Taylor,P. (1991), British Sovereignty and the European Community: What is at Risk ?*Millennium: Journal of International Studies*, vol. 20, no.1.
- Teubner,G.(eds.). (1988), *Introduction to Autopoietic Law*, in *Autopoietic Law: A New Approach to Law and Society*, Berlin, New York: W. de Gruyter.
- Thelen, K & S. Steinmo, (1992), Historical Institutionalism in Comparativ Politics, in Steinmo, Thelen & Longstreth(eds.), *Structuring Politics: Historical Institutionalism in Comparative Analysis*, Cambridge: Cambridge University Press.
- Tranholm-Mikkelsen,J.(1991),Neo-functionalism: Obstinate or Obsolete ? A Reappraisal in the Light of the New Dynamism of the EC, *Millennium: Journal of International Studies*, vol. 20 no.1.
- Viotti,P. & M. Kauppi, (1987),*International Relations Theory*, New York: Macmillan.
- Walker,R.B.J.(1987), Realism, Change and International Political Theory, *International Studies Quarterly*, vol. 31/1.
- Walker,R.B.J. & S.H. Mendlovitz, (1990), Interrogating State Sovereignty, in Walker & Mendlovitz(eds.),*Contending Sovereignties: Redefining Political Community*, London: Lynne Rienner Publishers.
- Wallace,W., H.Wallace & Webb (eds.), *Policy-Making in the European Community*, London: Wiley and Sons.
- Waltz,K.(1979),*Theory of International Politics*, Reading: Mass.
- Webb,C.(1977), Introduction: variations on a theoretical theme, in Wallace, Wallace & Webb (eds.), *Policy-Making in the European Community*, London: Wiley and Sons.

- Weber,S and H. Weismeth (1991), 'Issue Linkage in the European Community', *Journal of Common Market Studies*, 29(3): 255-268.
- Weiler,J.(1981),The Community System.The Dual Character of Supranationalism, *Yearbook of European Law*, vol. 1, no.11.
- Weiler,J.(1991), The Transformation of Europe, *The Yale Law Journal*, vol. 100, no. 8.
- Weiler,J.(1994), A Quiet Revolution: The European Court of Justice and Its Interlocutors, *Comparative Political Studies*, vol. 26/4.
- Weiler,J.(1993), Journey to an Unknown Destination: A Retrospective and Prospective of the European Court of Justice in the Arena of Political Integration, *Journal of Common Market Studies*, vol. 31/4.
- Wendt,A.(1987),The Agent/Structure Problem in International Relations Theory, *International Organization*, vol. 43,3.
- Wendt,A.(1992), Anarchy is what States Make of it: The Social Construction of Power Politics, *International Organization* , 46/2.
- Wendt,A.(1994), Collective Identity Formation and the International State, *American Political Science Review* 88/2.
- Wendt,A. & R. Duvall,(1989), Institutions and International Order, in Czempiel & Rosenau(eds.),*Global Changes and Theoretical Challenges: Approaches to World Politics in the 1990's*, Lexington: Lexington Books.
- Wight,M.(1977), *Systems of States*,Leicester, Leicester University Press.
- Wildavsky,A.(1994), Why Self-interest means less outside of a social context: Cultural contributions to a theory of rational choices, *Journal of Theoretical Politics* , no. 6/2.
- Wind,M.(1992),(in Danish), Does Europe Exist ? Reflections on Defence, Identity and Civic Virtue in a New Europe, in Sørensen(eds.),*Europe: Nation-Union- after Minsk and Maastricht*, Copenhagen :Fremad.
- Wind,M. (1993),(in Danish),*Poststructuralism & International Politics: The Metatheoretical background for the Critical Debate in IR.Theory in the 1980's*, Århus: Institute of Political Science.

- Wind, M.(1994), (in Danish), Europe: Towards a Post-Hobbesian Order ? Giddens theory of Structuration & the Study of European Integration - or how to explain European Integration as an unintended consequence of rational state-action, Copenhagen: *Dansk Sociologi* no. 4/5 p. 20-41.
- Wind, M.(1996a), The Rules of Anarchy: N.G.Onuf, in Wæver & Neumann (eds.), *The Future of International Relations: Masters in the Making* ? London & New York, Routledge.
- Wind, M.(1996b), Rediscovering Institutions: A Reflectivist critique of Rational-Institutionalism, in K.E. Jørgensen, (ed.), *Reflective Approaches to the Study of European Governance*, London & New York: Macmillan.
- Wind, M.(1997), *Towards a Sociological Theory of European Integration or how to Explain European Integration as an Unintended Consequence of Rational State Action*, Ph.D.-thesis, London & New York: Macmillan, forthcoming.
- Wæver, O.(1991), Territory, Authority, and Identity: The late 20th Century Emergence of Neomedieval Political Structures in Europe Copenhagen: *Workingpaper, Centre for Peace -and Conflict Research*.
- Wæver, O.(1992), (in Danish), *Introduction to the Study of International Politics*, Copenhagen: Politiske Studier.
- Wæver, O. (1994), The Rise and Fall of the Inter-Paradigm Debate, Copenhagen: Centre for Peace and Conflict Research, *Working Paper no. 13*.
- Wæver, O.(1995), Identity, Integration and Security: Solving the Sovereignty Puzzle in E.U Studies, *Journal of International Affairs*, 48/2.
- Yablon, C. (1992), Are Judges Liars ? A Wittgensteinian Critique of Law's Empire, in D. M. Patterson(ed.), *Wittgenstein and Legal Theory*, Boulder: Westview Press.
- Young, O.(1986), International Regimes: Towards a New Theory of Institutions, *World Politics*, vol. XXXIV.

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